

OCTOBER 2003
Gulf of Alaska Rationalization
Alternative Descriptions and Discussion Paper

At its June 2003 meeting, the Council refined the alternatives that are under consideration for rationalization of the Gulf of Alaska groundfish fisheries. The complexity of the alternatives, together with the number of remaining options within each alternative pose a substantial analytical challenge. This paper first introduces a proposed approach to meet that challenge, then goes on to take the first step in that process.

A proposed approach to the analysis

The simple table showing the alternative structures adopted by the Council at its June 2003 meeting leaves several aspects of the alternatives uncertain. For example, several options for cooperative formation requirements and penalties for movement from a cooperative are contained in the options. To adequately analyze an alternative most elements must be specified (such as the applicable formation requirements and penalties for cooperatives). An adequate analysis must make clear the implications of each option available to the Council, including the interaction of that option with any other option that the Council might choose. If an alternative has too many options, the implications of the interactions of different decisions cannot be fully explained or understood by the decision maker. Not all options must be decided for the EIS analysis to be completed, as staff can analyze the alternatives with multiple options. At the extreme, however, leaving several options in each alternative would create an insurmountable analytical task. In this case, the complexity of the alternatives limits the ability of staff to provide an adequate analysis due to the many outstanding options. In addition, the Council's intention to be permitted to select different alternatives for different sectors complicates the analysis. An analysis that is sufficient for the Council to select different alternatives for different sectors must clearly describe the implications of those choices. For example, the analysis might need to examine the implications of one sector being governed by a mandatory cooperative and another being governed by a voluntary cooperative program. If these different sectors are permitted to trade shares with one another, the analysis must examine the consequences of those trades as well. In the end, the ability of the analysts to accommodate these complexities along with the added complexity of options within an alternative is limited by the need to provide the Council with a document that clearly explains the consequences of these interacting choices.

To address this problem, staff could provide analyses of selected options which the Council may use to further refine the alternatives by selecting options. Doing so, the Council could develop a set of specifically defined alternatives, each with a few open options for analysis in the EIS, from which a preferred alternative could be selected. Using this approach, the analytical process would become tiered. In the first tier, many options would be analyzed in a manner that the Council can understand the implications of including those options in an alternative. In the second tier, alternatives (each with a few options) would be analyzed in a manner that provides the Council with an understanding of the implications of the choice among alternatives and the remaining options. Regardless of the approach taken by staff, retaining multiple options for analysis within an alternative will protract the time for analysis. If a substantial number of options are retained after this meeting, the analysis is likely to be streamlined by the staff providing preliminary analyses that can be used by the Council to reduce the options prior to providing an analysis of alternatives, as required for the EIS. Staff, however, will be unable to complete much of the analysis required in the EIS prior to the Council narrowing the options. The tiered approach to the analysis suggested here has the potential to provide the Council with a sound understanding of the consequences of its decisions in a manner that meets the regulatory analytical requirements.

Preliminary analysis

The description of alternatives and the preliminary analysis that follows is intended to help the Council reduce the number of options in each alternative. Through this process of refining the alternatives, it is possible that the EIS analysis could be streamlined.

The Council has adopted two documents that define its alternatives; a simplified table that summarizes the general structure of the alternatives and a listing of elements and options from which the alternatives will be specifically defined. It is the integration of the two documents that will define the alternatives. This paper presents the staff's understanding of the alternatives and the elements and options that compose those alternatives, to the extent the alternatives have been defined. In addition, the document provides a preliminary analysis of several of the elements and options in the Council's June 2003 motion.

This paper and its attachments can be used by the Council for three primary purposes. First, the document can be used by the Council to advise staff of whether its understanding of the alternatives is correct. Correct understanding of the alternatives is critical to an analysis of the alternatives. A second way the Council can use this paper is to further refine the alternatives. The description of the alternatives, together with the preliminary analysis of elements and options, can be used to define alternatives for analysis in the EIS. A third use of this document is for the Council to assess the range of existing alternatives for EIS analysis. The EIS must analyze a reasonable range of alternatives that meet Council's purpose and need statement. The description of alternatives and the interactions of the elements and options in those alternatives may be used by the Council to confirm that the alternatives cover a reasonable range.

The following section of this paper first briefly describes each alternative. The elements and options applicable to each alternative are identified. Since the alternatives differ across sectors, the paper presents a brief comparison of the alternatives by sector to aid the Council in understanding the breadth of alternatives identified for each sector. The specific elements and options that define the differences in the alternatives with respect to each sector are also listed in this section for clarity.

The second part of this section provides preliminary analysis of some of the elements and options under consideration. This analysis serves two purposes. First, the discussion should provide the Council with staff's understanding of the elements and options, to ensure the staff and Council interpretations of provisions are consistent. Second, the discussion may be sufficient for the Council to make a decisions concerning some of the options. Decisions at this stage on several elements and options could considerably reduce the time necessary to complete the analysis.

As the Council refines its alternatives, perhaps the most difficult hurdle will be for the Council to clearly communicate to the public and staff its alternatives (i.e., exactly how do the elements and options comprise an alternative). Some elements may apply to one alternative and not another. The problem is compounded because elements may apply to only one sector in an alternative but not to other sectors. For example, fixed gear catcher vessels may be subject to different processor landing requirements than trawl catcher vessels, so a provision that pertains to landing requirements needs further explanation. Clarity and understanding of the alternatives is complicated since both rationalization alternatives are constructed from a single listing of elements and options. To clarify its intentions, the Council might consider providing a set of elements and options for each of the rationalization alternatives under consideration. To assist the Council, staff has included separate lists of elements and options for alternatives 2 and 3 (see Attachments A2 and A3). Strikeouts are used to show provisions that staff believes do not apply under an alternative and some clarifications and limitations are suggested in bolded text. In addition, the elements and options are annotated in italicized, bolded text to explain staff's current understanding of the alternatives and suggest possible clarifications.

Description of the alternatives

Alternative 1

Under this alternative all sectors would subject to the current management. For most fisheries this would be continued management under the License Limitation Program (the LLP). Entry to the jig fishery would continue to be permitted for vessels under 60 feet without an LLP licences. Vessels under 26 feet would not require an LLP. Vessels fishing in the State parallel fishery would not be subject to LLP restrictions. Bycatch of participants in the halibut and sablefish IFQ program would continue under the current management.

Alternative 2

Under this alternative different sectors would be subject to different management. Most participants would be subject to a mandatory cooperative program, under which participants would be required to join a cooperative to receive an exclusive (or protected) annual harvest share allocation. Initial share allocations would be based on historic participation. Separate sectors of catcher/processors, trawl catcher vessels, and high producing fixed gear catcher vessels¹ would all be subject to the mandatory cooperative program. Participants in these sectors that elected not to join cooperatives would be permitted to compete for harvests with other non-members of cooperatives from their sector in a limited open access fishery comprised of the allocations of all non-members of cooperatives from the sector. The allocation of bycatch to the open access fishery would be reduced to encourage cooperative membership and to protect stocks from overharvest. The Council could require that each trawl catcher vessel cooperative deliver a specified percentage of its landings to either a closed class of processors or to the processor with which the cooperative associates. Cooperative eligibility and processor associations would be based on historic landings of the harvester. The fixed gear participants would be separated into two sectors – “high producing” fixed gear participants, those license holders that receive allocations above a specified percentile, and “low producing” fixed gear participants, whose harvest share allocations are below the specified percentile. High producing fixed gear catcher vessel cooperatives would be required to deliver a specified percentage of their harvests to a closed class of processors. Low producing fixed gear participants would not be subject to the mandatory cooperative structure, but would be issued IFQs and would be permitted to form voluntary cooperatives. The low producing fixed gear sector would not be subject to any processor landing requirements.

Attachment 2A is a revision of the Council motion from the June 2003 meeting that defines alternative 2.

Alternative 3

Under alternative 3, all participants would be managed under a mandatory cooperative program, under which participants would be required to join a cooperatives to receive an exclusive (or protected) annual harvest share allocation. The fishery would be divided into six sectors, catcher/processor trawl, catcher/processor longline, catcher/processor pot, catcher vessel trawl, catcher vessel longline, and catcher vessel pot. Participants in each sector would be initially allocated shares based on historic participation. As under alternative 2, participants that elected not to join cooperatives would be permitted to compete for harvests with other non-members of their sector in a limited open access fishery comprised of the allocations of all

¹ In assessing the options, it is important to bear in mind that the program would be share-based not vessel-based. Harvest shares would categorized by the vessel type that created that history. The categorization of the shares could limit the vessel type on which the shares could be used. Cooperative membership also could be limited to holders of a the same category of shares. So, in the discussion that follows, a reference to a cooperative of a certain vessel type should be interpreted as a cooperative made up of holders of shares with that vessel designation.

sector participants in the open access fishery. Bycatch allocations to the open access fishery would be reduced to increase the incentive for cooperative membership. Alternatively, the Council could choose to prohibit participants from fishing outside of cooperatives, making cooperative membership a prerequisite for participating in the fisheries. Catcher vessel cooperatives would be required to deliver a specified percentage of landings to the processor with which the cooperative associates. Cooperative eligibility and processor associations would be based on historic landings of the harvester. Movement between cooperatives would be permitted subject to either a temporary share reduction or a year in the open access fishery to protect the interests of the cooperative and associated processor.

Attachment A3 is a revision of the Council motion from the June 2003 meeting that defines alternative 3.

Interaction with the halibut and sablefish IFQ program

The allocation of target and bycatch groundfish species in the Gulf of Alaska not only affects the groundfish fisheries, but also will have both direct and indirect effects on the halibut and sablefish fisheries in the Gulf. Under the alternatives, participants in the halibut and sablefish IFQ program could be allocated shares of target and bycatch² species. On its face, this allocation will substantially change the management of the IFQ fisheries, which are currently harvest bycatch from a TAC shared with groundfish fisheries. The elements and options suggest that if these bycatch shares are allocated, halibut and sablefish IFQ holders could be individually limited by their bycatch share holdings. Many of the details of the interaction between the rationalized Gulf groundfish fisheries and the halibut and sablefish IFQ program are unclear in the Council motion. For example:

- Will halibut and sablefish IFQ holders be allocated target species to cover bycatch of those species. The current motion contains a suboption for the allocation of “target species” to IFQ holders.
- If a participant holds unused halibut IFQ but has used all shares to support incidental catch (of “target” and “bycatch” species), would that share holder be able to lease groundfish shares from a cooperative.
- Is it intended that IFQ program participants can join cooperatives based solely on their allocations for incidental catch (such as cod) when targeting halibut or sablefish.
- If the Council adopts a mandatory cooperative program, must a halibut or sablefish IFQ holder join a cooperative to receive a groundfish allocation.
- If a halibut or sablefish IFQ holder is also allocated target species in a Gulf fishery (i.e., cod) and joins a cooperative based on its target holdings, how much of that participant’s groundfish allocation is allocated to the cooperative and how much is allocated individually to support halibut or sablefish harvests.
- Are halibut and sablefish captains and crew included in any allocation to captains.
- When would a halibut IFQ holder that also holds Gulf groundfish target shares and is not in a cooperative be permitted to fish in the open access fishery. And, what shares of that IFQ holder will be allocated to the open access fishery.

In fisheries that are dependent on bycatch these choices could be very important to participants.

² Generally, NOAA Fisheries prefers to use the term bycatch to refer to unintended harvest of PSC species and “incidental catch” to refer to unintended catch of species other than PSC species.

Alternatively, the IFQ fisheries could continue to be managed under the status quo. Under this approach, an explicit allocation of groundfish would be made to the halibut and sablefish fisheries. If the allocation were binding on the fleet, a “race for incidental catch” could arise among the IFQ fleet.³

The Council should consider the interaction of the Gulf groundfish rationalization program with the halibut and sablefish IFQ program, either adopting specific elements and options or developing a plan for addressing these issues.

Southeast Outside Fisheries

The Council motion contains provisions that would allocate shares of shortraker/rougheye and thornyhead to participants (including halibut and sablefish IFQ holders) in Southeast Outside fisheries. Several of the same issues arise concerning this allocation as arise relative to the allocation of shares to halibut and sablefish IFQ participants. If the Council wishes to pursue this SEO allocation, rules that govern the these shares will need to be developed. For example,

- will these holders of SEO shares be subject to a cooperative or IFQ program and what will be the terms of that program.
- will there be any limitation on the target species that can be harvested by the holders of these shares.
- what sectors will these shares be divided into.
- what rules will govern entry to these fisheries (i.e., if all meaningful bycatch is allocated in shares, is there a reason to retain the LLP).
- how will the bycatch allocations based on groundfish targeting interact with the bycatch allocations to halibut and sablefish IFQ holders.

In short, the Council will need to develop a full set of the rules that govern the SEO fisheries (as are being developed for the other Gulf groundfish fisheries).

Comparison of Alternatives

To assist the Council in considering the breadth and contrast of the alternatives, a brief description of rules governing each vessel group under the different alternatives is contained in this section. At the end of the descriptions for each vessel group, a comparison of the two rationalization alternatives for the vessel group is presented. In addition to helping the Council assess the contrast of the alternatives, the Council may use these comparisons to guide its selection of options that would more fully define each alternative. In selecting options for the alternatives, the Council should consider the need for contrast among the alternatives. Greater contrast across the alternatives would allow analysis to provide a better understanding of the differences between programs that may be reasonable. In selecting options to make distinctions between the alternatives, the Council might also consider the implications of those choices for the analysis. Consistency across sectors within an alternative would likely simplify the analysis by generalizing the analysis of the alternative.

³ Determining the appropriate allocation of incidental catch could prove difficult given the limited information available concerning incidental catch in the IFQ fisheries due to limited observer coverage. Although halibut and sablefish IFQ fisheries are required to retain all rockfish and Pacific cod incidental catch up to the maximum retainable allowance (MRA), any amount over the MRA would need to be discarded and may not be accounted. Incidental catch of other groundfish species are not required to be retained, and data collection is limited to self reporting except on the small percentage of the halibut and sablefish IFQ fleet which is subject to observer coverage.

Catcher/processors

Alternative 2

Under alternative 2,

- Catcher/processor share holders are treated as a single sector.
- Eligible persons with catcher/processor history would be allocated harvest shares based on that catch history.
- To receive an exclusive annual allocation, the holder of shares would be required to join a cooperative.
- The annual allocation would be made to the cooperative and would be fished in accordance with the rules of the cooperative.
- If the holder of harvest shares chooses not to join a cooperative, the shares of that person would be allocated to an open access fishery, comprised of all non-members of cooperative in the catcher/processor sector.
- The bycatch allocation to the open access fishery would be reduced to create an incentive for cooperative membership.

The following elements and options would apply to catcher/processors under alternative 2:

- 4.1, Option 2 - mandatory cooperatives
- 4.2.1 - the sector must be clearly defined under this alternative
- 4.2.1.1 - no processor association for catcher/processor cooperatives
- 4.2.2 - one option should be selected for minimum cooperative membership
- 4.2.3 - defines cooperative agreement duration
- 4.3.1 - Option 1 - if an open access fishery is included the cooperative will receive the annual allocation of its members (not that of the entire sector)
- 4.4 - include all subsections - define individual and vessel use caps
- 4.4 - bullets are a necessary component
- 4.5.1 - rules concerning movement between cooperatives
- 4.6, Option 1 - creates an open access fishery for non-members of cooperatives

Alternative 3

Under alternative 3,

- Catcher/processor share holders are divided into trawl, longline, and pot gear sectors.
- Eligible persons with catcher/processor history would be allocated harvest shares based on that catch history.
- To receive an exclusive annual allocation, the holder of shares would be required to join a cooperative.
- The annual allocation would be made to the cooperative and would be fished in accordance with the rules of the cooperative.
- If the holder of harvest shares chooses not to join a cooperative, the shares of that person would be allocated to an open access fishery, comprised of all non-members of cooperatives of the gear type in the catcher/processor sector. Alternatively, the Council could choose to require cooperative membership for participation in the fisheries.
- The bycatch allocation to the open access fishery would be reduced to create an incentive for cooperative membership.

The following elements and options would apply to catcher/processors under alternative 3:

- 4.1, Option 2 - mandatory cooperatives
- 4.2.1, iii or iv - sectors are defined for each gear type
- 4.2.1.1 - no processor association for catcher/processor cooperatives
- 4.2.2 - one option should be selected for minimum cooperative membership
- 4.2.3 - defines cooperative agreement duration
- 4.3.1
 - Option 1 - if an open access fishery is included the cooperative will receive the allocation of its members (not that of the entire sector)
 - Option 2 - if no open access fishery is included, then the entire sector allocation should be made. If the program rules establish one cooperative for the sector, the entire allocation would be made to the cooperative as provided for by Option 2. If program rules create multiple cooperatives for the sector, the allocation of non-member's shares should be defined.
- 4.4 - including all subsections - define individual and vessel use caps
- 4.4 - bullets are a necessary component
- 4.5.1 - rules concerning movement between cooperatives
- 4.6 - defines rules for non-members of cooperatives

Comparison of catcher/processor alternatives

The two alternatives treat catcher/processors similarly. Both are mandatory cooperative programs. Alternative 2 includes a limited open access fishery for non-members of cooperatives. Alternative 3 includes the same open access provision, but also includes an option under which cooperative membership would be required for any participation in the fisheries. Although the Council may choose to make contrasting distinctions in the two alternatives through differences in the defining options, the management of the participation of the sector will remain largely the same under these two alternatives.

One possible distinction in the alternatives is the level of aggregation across different gear types (i.e., whether catcher/processors form a single sector or three separate sectors, one for each gear type). The table of alternatives suggests that under alternative 2 catcher/processors of all gear types will be considered a single sector, while under alternative 3 the different gear types would be treated as separate sectors. If this distinction is intended, the Council could include options that provide for different levels of aggregation across gear types in the two alternatives.

Trawl catcher vessels

Alternative 2

Under alternative 2,

- Trawl catcher vessel share holders are treated as a single sector.
- Eligible persons with trawl catcher vessel history would be allocated harvest shares based on that catch history.
- To receive an exclusive annual allocation, the holder of shares would be required to join a cooperative.
- The annual allocation would be made to the cooperative and would be fished in accordance with the rules of the cooperative.
- Two options for cooperative delivery requirements are proposed under this alternative. Under the first, the cooperative would be required to deliver a specified percentage of its landings to processors

that are members of a closed class. Class membership would be based on processing history. Under the second option, eligibility for cooperative membership would be based on landings, with each share holder eligible to join a single cooperative associated with the processor to which it delivered the most fish to during the qualifying period. The cooperative, in turn, would be required to deliver specific percentage of its landings to the associated processor.

- If the holder of harvest shares chooses not to join a cooperative, the shares of that person would be allocated to an open access fishery, comprised of all non-members of cooperatives in the trawl catcher vessel sector. The bycatch allocation to the open access fishery would be reduced to create an incentive for cooperative membership.
- Under the option with processor linkages, movement of shares between cooperatives would be subject to a share reduction penalty or would require participation in the open access fishery for one year.

The following elements and options would apply to trawl catcher vessels under alternative 2 (with processor linkages):

- 3.1.1.1, Option 1, i - requires delivery to the linked closed class processor
- 3.1.1.2 - used to determine processor linkages
- 3.1.1.3 - specifies penalties for movement of linked shares between processors
- 3.1.2 - including all subsections - used to define closed class of processors (needed for linkages)
- 4.1, Option 2 - mandatory cooperatives
- 4.2.1, iii or iv. - defines sectors by vessel and gear type (trawl catcher vessel)
- 4.2.1.1, Option 2 - must associate with the linked closed class processing facility or company - (or Option 3, which is mostly redundant with provisions in 3.1.1.2)
- 4.2.2 - Option 1 or Option 4 (cannot have a single cooperative for each sector in a program with multiple licensed processors)
- 4.2.3 - defines cooperative agreement duration
- 4.2.4 - may be included - defines cooperative/processor association
- 4.3.1 - Option 1 (cannot have a single cooperative for the sector in a program with multiple qualified processors) - also may include all bullets
- 4.4 - including all subsections - define individual and vessel use caps
- 4.4 - bullets are a necessary component
- 4.5.1 - rules concerning movement between cooperatives
- 4.5.2 - rules defining affects of processor license transfers on cooperatives
- 4.6, Option 1 - creates an open access fishery for non-members of cooperatives

The following elements and options would apply to trawl catcher vessels under alternative 2 (with a closed class of processors):

- 3.1.1.1, Option 1, ii - must define the processors to which the sector may delivery (i.e., trawl or any large or small closed class processor depending on the processor licensing scheme)
- 3.1.2 including all subsections is used to define closed class of processors and the rules governing those processors
- 4.1, Option 1 - mandatory cooperatives
- 4.2.1, iii or iv, defines sectors by vessel and gear type (trawl catcher vessel)
- 4.2.1.1 - either Option 1 (no processor associations) or Option 2 (associate with any qualified closed class processing facility or qualified closed class processing company)

- 4.2.2 - Option 1 - A cooperative is required to have at least 4 distinct and separate harvesters - (other options may not apply since they would result in one cooperative for all trawl catcher vessel participants)
- 4.2.4 - may be included - defines cooperative/processor association
- 4.3.1, Option 1 - allocation of members is made to the cooperative - all bullets may be included
- 4.4 may include all of these options concerning individual and vessel use caps
- 4.4 - bullets are necessary component
- 4.5.1 may include provisions concerning movement among cooperatives.
- Do not include 4.5.2 - applies to program with processor linkages
- 4.6, Option 1 - creates an open access fishery for non-members of cooperatives

Alternative 3

Under alternative 3,

- Trawl catcher vessels are treated as a single sector.
- Eligible persons with trawl catcher vessel history would be allocated harvest shares based on that catch history.
- To receive an exclusive annual allocation, the holder of shares would be required to join a cooperative.
- The annual allocation would be made to the cooperative and would be fished in accordance with the rules of the cooperative.
- Eligibility for cooperative membership would be based on landings, with each harvester eligible to join a single cooperative associated with the processor to which it delivered the most fish to during the qualifying period (i.e., processor linkage is required). The cooperative, in turn, would be required to deliver a specific percentage of its landings to the associated processor.
- If the holder of harvest shares failed to join a cooperative, the shares of that person would be allocated to an open access fishery, comprised of all non-members of cooperative in the trawl catcher vessel sector. Alternatively, the Council could choose to require cooperative membership for participation in the fisheries.
- The bycatch allocation to the open access fishery would be reduced to create an incentive for cooperative membership.
- Movement of shares between cooperatives would be subject to a share reduction penalty or would require participation in the open access fishery for one year.

The following elements and options would apply to trawl catcher vessels under alternative 3:

- 3.1.1.1, Option 1, i - requires delivery to the linked closed class processor
- 3.1.1.2 - used to determine processor linkages
- 3.1.1.3 - specifies penalties for movement of linked shares between processors
- 3.1.2 (including all subsections) - used to define closed class of processors (needed for linkages)
- 4.1, Option 2 - mandatory cooperatives
- 4.2.1, iii or iv. - defines sectors by vessel and gear type (trawl catcher vessel)
- 4.2.1.1, Option 2 - must associate with the linked closed class processing facility or company - (or Option 3, which is mostly redundant with provisions of 3.1.1.2)
- 4.2.2 - Option 1 or Option 4 (cannot have a single cooperative for each sector in a program with multiple licensed processors)
- 4.2.3 - defines cooperative agreement duration
- 4.2.4 - may be included - defines cooperative/processor association

- 4.3.1 - Option 1 (cannot have a single cooperative for the sector in a program with multiple qualified processors) - also may include all bullets
- 4.4 - including all subsections - define individual and vessel use caps
- 4.4 - bullets are a necessary component
- 4.5.1 - rules concerning movement between cooperatives
- 4.5.2 - rules defining affects of processor license transfers on cooperatives
- 4.6 - rules governing non-members of cooperatives

Comparison of trawl catcher vessel alternatives

The two alternatives have two possible differences in their treatment of participants in the trawl catcher vessel sector. These differences should be clarified by the Council. The first difference relates to the delivery requirements and associations (or linkages) between cooperatives and processors. Alternative 2 could require cooperatives to delivery a specified percentage of their harvests to a closed class of processors without linkage to a specific processor. Alternative 3 would require that a cooperative delivery a specified percentage of its harvest to the processor to which its members delivered the most groundfish during the qualifying period.⁴

A second possible difference is in the treatment of non-members of cooperatives. Under alternative 2, non-members of cooperatives would be permitted to participate in a limited open access fishery comprised of the shares of all shares of trawl catch vessel non-members of cooperatives. Under alternative 3, non-members of cooperatives could be excluded from the fisheries.⁵

Fixed gear catcher vessels

Alternative 2

Under alternative 2,

- Fixed gear catcher vessel share holders are divided into a high producing vessel sector and a low producing vessel sector.
- Eligible persons with fixed gear catcher vessel history would be allocated harvest shares based on that catch history.
- For a high producing vessels
 - To receive an exclusive annual allocation, the holder of shares would be required to join a cooperative.
 - The annual allocation would be made to the cooperative and would be fished in accordance with the rules of the cooperative.
 - The cooperative would be required to deliver a specified percentage of its landings to processors that are members of a closed class. Class membership would be based on processing history.

⁴ If the delivery requirements of the two alternatives are made the same (i.e., cooperatives with a processor association based on historic landings is included under alternative 2), this difference would not exist and the two alternatives would be substantively the same in this respect.

⁵ Note that this distinction in the alternatives also depends on the Council's selection of the "no fishing" option for non-members of cooperatives in alternative 3. Whether the Council wishes to include the "no fishing" option to create a distinction is included in the discussion of options below.

- If the holder of harvest shares chooses not to join a cooperative, the shares of that person would be allocated to an open access fishery, comprised of all non-members of cooperative in the high producing fixed gear sector.
- The bycatch allocation to the open access fishery would be reduced to create an incentive for cooperative membership.
- For low producing vessels
 - Share holders would receive quota shares and annual allocations of IFQs that would be fished by the individual.
 - Share holders would be permitted to form voluntary cooperatives.
 - For cooperative members, the allocation would be made to the cooperative and would be fished in accordance with the rules of the cooperative.

The following elements and options would apply to “high producing” fixed gear catcher vessels under alternative 2:

- 3.1.1.1, Option 1, ii - must define the processors to which the sector may delivery (i.e., fixed gear or any large or small closed class processor depending on the processor licensing scheme)
- 3.1.1.4 defines the low producing sector, effectively defining the “high producing” sector
- 3.1.2 including all subsections is used to define closed class of processors and the rules governing those processors
- 4.1, Option 1 - mandatory cooperatives
- 4.2.1 - should be revised to include an option that cooperatives can be formed between “high producing” fixed gear participants
- 4.2.1.1 - either Option 1 (no processor associations) or Option 2 (associate with any qualified closed class processing facility or qualified closed class processing company)
- 4.2.2 - Option 1 - A cooperative is required to have at least 4 distinct and separate harvesters - (other options may not apply since they would result in one cooperative for all high producing fixed gear participants)
- 4.2.4 - may be included - defines cooperative/processor association
- 4.3.1, Option 1 - allocation of members is made to the cooperative - all bullets may be included
- 4.4 - may include all of these options concerning individual and vessel use caps
- 4.4 - bullets are necessary component
- 4.5.1 - may include provisions concerning movement among cooperatives.
- Do not include 4.5.2 - applies to program with processor linkages
- 4.6, Option 1 - creates an open access fishery for non-members of cooperatives

The following elements and options would apply to “low producing” fixed gear catcher vessels under alternative 2:

- 3.1.1.2, Option 2 exempts sector from closed class processor delivery requirements
- 3.1.1.4 defines the sector and provides for no processor delivery obligations
- 4.1, Option 2 - voluntary cooperatives
- 4.2.1 - should be revised to contain an option that cooperatives can be formed between “low producing” fixed gear participants
- 4.2.1.1 - either Option 1 (no processor associations) or Option 2 (associate with any licensed processing facility or licensed processing company - not closed class)
- 4.2.2 - Option 1 - A cooperative is required to have at least 4 distinct and separate harvesters

- 4.2.4 - may be included - defines cooperative/processor association
- 4.3.1, Option 1 - allocation of members is made to the cooperative - all bullets may be included
- 4.4 - may include all of these options concerning individual and vessel use caps
- 4.4 - bullets are necessary component
- 4.5.1 may include provisions concerning movement among cooperatives.
- Do not include either 4.5.2 or 4.6

Alternative 3

Under alternative 3,

- Fixed gear catcher vessel share holders are divided into two sectors, pot vessels and longline vessels.
- Eligible persons with fixed gear catcher vessel history would be allocated harvest shares based on that catch history.
- To receive an exclusive annual allocation, the holder of shares would be required to join a
- cooperative.
- The annual allocation of cooperative members would be made to the cooperative and would be fished in accordance with the rules of the cooperative.
- Eligibility for cooperative membership would be based on landings, with each harvester eligible to join a single cooperative associated with the processor to which it delivered the most fish to during the qualifying period (i.e., processor linkage is required). The cooperative, in turn, would be required to deliver a specific percentage of its landings to the associated processor.
- If the holder of harvest shares failed to join a cooperative, the shares of that person would be allocated to an open access fishery, comprised of all non-members of cooperative in the fixed gear catcher vessel sector. Alternatively, the Council could choose to require cooperative membership for participation in the fisheries.
- The bycatch allocation to the open access fishery would be reduced to create an incentive for cooperative membership.
- Movement of shares between cooperatives would be subject to a share reduction penalty or would require participation in the open access fishery for one year.

The following elements and options would apply to fixed gear catcher vessels under alternative 3:

- 3.1.1.1, Option 1, i - requires delivery to the linked closed class processor
- 3.1.1.2 - used to determine processor linkages
- 3.1.1.3 - specifies penalties for movement of linked shares between processors
- 3.1.2 - including all subsections - used to define closed class of processors (needed for linkages)
- 4.1, Option 2 - mandatory cooperatives
- 4.2.1, iii or iv. - defines sectors by vessel and gear type (pot catcher vessel and longline catcher vessel)
- 4.2.1.1, Option 2 - must associate with the linked closed class processing facility or company - (or Option 3, which is mostly redundant with provisions of 3.1.1.2)
- 4.2.2 - Option 1 or Option 4 (cannot have a single cooperative for each sector in a program with multiple licensed processors)
- 4.2.3 - defines cooperative agreement duration
- 4.2.4 - may be included - defines cooperative/processor association
- 4.3.1 - Option 1 (cannot have a single cooperative for each sector in a program with multiple licensed processors) - also may include all bullets
- 4.4 - including all subsections - define individual and vessel use caps

- 4.5.1 - rules concerning movement between cooperatives
- 4.5.2 - rules defining affects of processor license transfers on cooperatives
- 4.6 - rules governing non-members of cooperatives

Comparison of fixed gear catcher vessel alternatives

The alternatives for fixed gear catcher vessel participants are substantively different in a few ways. The two alternatives divide the fixed gear catcher vessel participants differently. Under alternative 2, fix gear catcher vessel participants are separated into a high producing sector and a low producing sector. These two sectors would be subject to different management structures under the alternative. Under alternative 3, fixed gear catcher vessel participants are divided into two sectors by gear type, a longline catcher vessel sector and a pot catcher vessel sector. Whether these different gear types would be subject to different rules is not clear and depends on the Council's decisions on the specific options that will apply to this alternative.

Under alternative 2, high producing fixed gear catcher vessel participants would be required to deliver to a closed class of processors. Members of this sector that chose not to join a cooperative could participate in an open access fishery for non-members of cooperatives. Under alternative 3 (in which the high producing/low producing distinction is not made), these participants would be subject to a mandatory cooperative program in which a cooperative would be required to delivery a specific percentage of its allocation to the processor to which its members delivered most of their catch historically (i.e., cooperative linkage would be required). Alternative 3 would either create an open access fishery for non-members of cooperatives or, alternatively, not permit non-members to participate in the fisheries.

Under alternative 2, "low producing" fixed gear catcher vessel participants would be managed under a voluntary cooperative program that is not applicable to any other sector under either of the alternatives. Under alternative 3, these vessels would be governed by the same mandatory cooperative program as all other fixed gear catcher vessels. Under that program, a participant would be eligible to join the cooperative associated with the processor to which it delivered the most fish historically (i.e., processor linkage would be required). Each cooperative would be required to deliver a specific percentage of its harvests to the associated processor. Alternative 3 would either create an open access fishery for non-members of cooperatives or, alternatively, would preclude their participation in the fisheries altogether.

Under alternative 2, "low producing" fixed gear catcher vessel participants would be governed by a voluntary cooperative alternative that would not be analyzed for any other sector. The Council provided its rationale for not applying this management to other participants at its June 2003 meeting.⁶ It should be noted, however, that the closed class of processors alternative, which is included in alternative 2 for the trawl catcher vessel sector and the high producing fixed gear catcher vessel sector, is not included in any alternative for the low producing fixed gear vessel sector. **The Council should provide its rationale for excluding a closed class of processors alternative for the low producing fixed gear vessel sector.** In doing so, the Council should explain the rationale for including both the less restrictive voluntary cooperative alternative (in alternative 2) and the more restrictive processor linkage alternative (in alternative 3) for this sector.

Interaction with the halibut and sablefish IFQ program

The different alternatives do not contain specific provisions that would govern the relationship of the Gulf rationalization program to the halibut and sablefish IFQ program. The Council motion, however, contains

⁶ The record from the June 2003 meeting shows that the Council believes that the voluntary cooperative structure is not appropriate for other participants in the Gulf fisheries because it would jeopardize the stability of communities and the processing sector.

several provisions that could be applied to define this relationship. Those provisions are briefly reviewed here.

The following elements and options could be applied to halibut and sablefish IFQ participants:

- 2.1 - provides for the allocation of rockfish bycatch on a NMFS management area basis
- 2.1 - provides for allocation of shortraker/rougheye and thornyhead bycatch in SEO based on target harvests of halibut, sablefish, demersal shelf rockfish, and Pacific cod (otherwise SEO will be excluded from the program)
- 2.2.2 includes a suboption that would make IFQ holders eligible for allocations of incidentally caught groundfish. The nature of these allocations and the rules that IFQ holders would be subject to are not clear.
- 2.3.3.6 - prohibitions on leasing could be applied but would restrict usefulness of bycatch shares
- 2.3.3.8 - owner on board provisions could be applied
- 2.4 - provides for the allocation of bycatch shares
- 2.5.5 - provision for retention of halibut could apply
- 2.6 - incentive species provisions could apply - might require different rules if IFQ holders are not in cooperatives
- 2.8 - skipper and crew provisions could apply (if halibut and sablefish skippers do not receive an allocation, the Council could need to specify rules to distinguish bycatch in the IFQ fisheries from bycatch in target fisheries of the Gulf)
- 2.9.1 - regionalization could apply
- 2.11 - impacts on halibut and sablefish fisheries could be included in the review and evaluation
- 3.1 - interactions with the processor protections should be considered - leasing or sale of shares to halibut and sablefish IFQ holders could be complicated by processor landing requirements (i.e., closed class of processors and processor linkages)
- 4.1 through 4.6 - the interaction of cooperative provisions with halibut and sablefish participants should be considered

Note that application of the general rules of the Gulf rationalization program to the allocation of target species (such as cod) could involve halibut and sablefish IFQ holders that harvested and landed groundfish primarily as bycatch. **The Council should specify the extent to which these allocations will be subject to the rules of the Gulf rationalization program and specify any other rules that are intended to govern participation of these share holders.**

SEO groundfish fisheries

The allocation of bycatch to the SEO groundfish fisheries raise several questions concerning the management of SEO groundfish fisheries. The Council will need to develop rules that define participation in target fisheries that are conducted using these bycatch allocations. **Since target allocations are not made in these fisheries, the rules governing targeting are unclear. The Council should specify the rules that will govern these fisheries.**⁷

⁷ One possible approach is to treat these fisheries similar to the incentive fisheries, in which harvest of targets is limited only by the commonly fished TAC and the participant's holdings of bycatch shares. These fisheries could then be subject to the same alternatives proposed for fisheries in other areas. For example, alternative 3 would establish a mandatory cooperative alternative with processor linkages for these participants. The distinction of halibut and sablefish IFQ holders under this structure would remain problematic.

Definition of the alternatives

Since the table of alternatives developed by the Council at its June 2003 meeting leaves several provisions of each alternative undefined, the Council will need to devote substantial effort to identifying the options that comprise each alternative. In defining the alternatives by selecting options, the Council should consider the need for creating a range of contrasting alternatives. Differentiating the alternatives by including distinct options in the different alternatives will add contrast and broaden the range. In addition, the options selected for each alternative should define a workable alternative that meets the problem statement. Inclusion of options that make an alternative unworkable or infeasible should be avoided. At this meeting, staff will provide the Council with preliminary analysis of some of the options included in its current motion. In some cases, future analysis could be provided through quantitative analysis or greater attention to issues of particular concern. The analysis provided here is intended to provide the Council with an explanation of the operation of the options and the general implications of the different choices. If the Council believes that this analysis, together with its understanding of the issue from prior experience and public testimony, provides adequate information to make a decision, the Council could narrow the options by selecting options that would apply to an alternative. If the Council believes that additional analysis is necessary for making a decision concerning an option, the Council could delay decision concerning the option for a future meeting.

Topic 1: Allocation of target species by gear

Section 2.3.1 of the motion contains the following provision concerning the allocation of target species by gear:

- | | |
|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.3.1 | Initial Allocation of catch history |
| | Option 1. Allocate catch history by sector and gear type |
| | Option 2. Allocate catch history on an individual basis |
| a. | Trawl CV and CP:
Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish |
| b. | Longline CV and CP:
Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder |
| c. | Pot CV and CP:
Pacific Cod |

Option 1 provides for sector allocations, rather than individual allocations. Allocations in the current alternatives appear to be to individuals based on individual histories.⁸ If that is the Council's intention, Option 1 does not appear to be applicable and may be deleted. If some other interpretation of the alternatives and these options is intended, the Council should clarify that intention with staff. Option 2 provides for the allocation of history to individuals in identified sectors. Option 2 parallels both of the alternatives in the current Council motion since both provide for the allocation of harvest shares to individuals. The

⁸ Although the alternative 3 in the table of alternatives provides for "sector allocations," the table also provides for harvest share allocations to individuals under the alternative. So, it appears that the allocation would be based on individual histories and would be subject to individual control, rather than some level of sectoral control. As a result, Option 1 alone could not support the allocation of shares under the program. Option 2, however, alone can support the allocation provided sector definitions are established that carry out the Council's intention to create distinct sectors.

enumeration of species by gear type is applicable to both alternatives in that it provides the basis for target allocations.

The options could include halibut and sablefish IFQ holders in the allocation of these species (through the eligibility provisions of 2.2.2). The Council should provide for some allocation or reservation of these species to IFQ holders. At least two approaches are possible. Allocations of shares of these species could be made to individuals under the 2.2.2 suboption. An alternative is to set aside a bycatch reserve for IFQ holders to fish collectively. The management rules for either allocation would need to be specified.

Topic 2: Harvest share sector designations

Section 2.3.2.2 of the Council motion includes the following provisions for the designation of harvest shares:

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|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.3.2.2 | Harvest share sector designations: |
| Option 1. | No designation of harvest shares (or QS/IFQ) as CV or CP |
| Option 2. | Designate harvest shares (or QS/IFQ) as CV or CP. Annual CV harvest share allocation (or IFQ) conveys a privilege to harvest a specified amount. Annual CP harvest share allocation (or IFQ) conveys the privilege to harvest and process a specified amount. |
| | Designation will be based on: |
| | Actual amount of catch harvested and processed onboard a vessel by species. |

Both of the alternatives appear to distinguish catcher/processor shares from catcher vessel shares. If catcher/processor shares are intended to differ from catcher vessel shares, by providing an onboard processing privilege, option 1 may be deleted. If some other interpretation of the options is intended, the Council should clarify that intention.

Topic 3: Harvest share gear designations

In addition to vessel types, harvest shares could also be designated by gear type. To clarify its intentions concerning the different alternatives, the Council should specify which options apply to which alternatives. Section 2.3.2.3 of the Council motion provides:

- | | |
|-----------|--------------------------------------------------------------------------------------|
| 2.3.2.3 | Harvest share gear designations |
| Option 1. | No gear designation |
| Option 2. | Designate harvest shares as Longline, Pot, or Trawl |
| Option 3. | Longline and pot gear harvest shares (or IFQ) may not be harvested using trawl gear. |
| Option 4. | Pot gear harvest shares (or IFQ) may not be harvested using longline gear |

These options provide for different gear designations and trading of shares among gear types. Under Option 1 no gear designations would apply suggesting that shares could be freely traded among different gear types. Option 2 would designate shares as longline, pot, or trawl. Option 2 appears to apply to alternative 3 for both catcher/processors and catcher vessels, since alternative 3 separates both vessel types into three different gear sectors.

The Council's intent concerning gear designations with respect to alternative 2 is unclear. Whether gear designations would apply to catcher/processors is not clear. Under alternative 2, trawl catcher vessels appear to be treated as a single sector. Fixed gear catcher vessels appear to be treated as a single gear type (but are separated into high and low producers (which is accomplished under 3.2.2.1)). If the Council intends to create two fixed gear catcher vessel sectors under alternative 2 (one for high producers and another for low producers) without distinguishing pot and longline gear, the Council might consider an option that explicitly aggregates pot and longline catcher vessel shares into a single sector. Alternatively, the Council could adopt provisions that limit the use of shares of one gear type using another gear type.

Topic 4: Designation of sectors for cooperative formation

Section 4.2.1 of the Council motion provides:

- 4.2 Cooperative formation
- 4.2.1 Co-ops can be formed between holders of harvest shares or history of:
- i. any type
 - ii. the same area, gear, vessel type (CV or C/P), and/or vessel length class.
 - iii. the following classes of shares/history
 - CV trawl
 - CV longline
 - CV pot
 - C/P trawl
 - C/P longline
 - C/P pot
 - iv. All CV in the same area (WGOA and CGOA & WY combined)
 - CV trawl
 - CV fixed gear
 - CV longline
 - CV pot
- Each group of share/history holders of a defined class that may form cooperatives is defined as a "sector."

For each alternative, the Council should define the sectors for purposes of cooperative formation. Designation of sectors for purposes of cooperative formation will clarify the alternatives, possibly shedding light on some of the differences across alternatives intended by the Council. Under alternative 2, the Council should consider whether options should be added that would create separate sectors for "high producing" fixed gear catcher vessels and "low producing" fixed gear catcher vessels. Such a provision could be necessary since these different vessel groups would be subject to different management under the alternative.

Whether the Council creates relatively broad or narrow sectors depends on whether it intends that different vessel groups to operate independently under an alternative. For example, if the Council intends longline vessels to operate independently from pot vessels, as appears to be the case under alternative 3, separate sectors should be specified for the two gear types.⁹ The Council could specify different sector designations under the two alternatives to provide contrast between the alternatives. The current Council motion suggests that the following cooperative sector designations are intended:

⁹ If the Council is concerned that the two vessel groups should interact to a limited degree, that interaction could be supported by allowing trading of shares between the two gear types.

Alternative 2

Catcher/processors

Trawl catcher vessels

“High producing” fixed gear catcher vessels

“Low producing” fixed gear catcher vessels

Alternative 3

Trawl catcher/processors

Longline catcher/processors

Pot catcher/processors

Trawl catcher vessels

Longline catcher vessels

Pot catcher vessels

Topic 5: Share transferability and ownership restrictions

The Council motion contains the following provisions concerning share transfer and ownership:

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|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.3.3.1 | Persons eligible to receive harvest shares by transfer must be (not mutually exclusive): |
| Option 1. | US citizens who have had at least 150 days of sea time |
| Option 2. | Entities that have a U. S. citizen with 20% or more ownership and at least 150 days of sea time |
| Option 3. | Entities that have a US citizenship with 20% or more ownership |
| Option 4. | Initial recipients of CV or C/P harvest share |
| Option 5. | US Citizens eligible to document a vessel. |
| Option 6. | Communities would be eligible to receive harvest shares by transfer (this provision would be applicable if certain provisions of 2.9 are adopted.) |
| 2.3.3.5 | Definition of sea time |
| | Sea time in any of the U.S. commercial fisheries in a harvesting capacity. |

First, the Council should incorporate the provision from 2.3.3.5 into 2.3.3.1 for clarity, since that provision only applies to 2.3.3.1.

Since the implications of these provisions are not complicated, the Council may consider selecting provisions will apply under the alternatives at this meeting.

Option 1 would permit US citizens with at least 150 days of sea time to purchase harvest shares. Since only individuals are citizens, it would limit share ownership to individuals. Under Section 2.3.3.5, the sea time must be in a US commercial fishery in a harvest capacity.

Option 2 would require any entity to have a 20 percent US citizen owner that meets the 150 days of sea time requirement. A provision of this type would be needed if corporations and partnership are intended to be permitted to purchase harvest shares. In assessing this provision, the Council should bear in mind that the American Fisheries Act (AFA) requires an entity to have at least 75 percent US ownership to document a fishing vessel.¹⁰ If the Council were to adopt this provision, entities could hold harvest shares that they could not harvest because of failure to meet the citizenship requirements of the AFA.

¹⁰ A few vessels have been granted treaty exemptions to the ownership requirements of the AFA.

Option 3 is an alternative provision that could be adopted to allow corporations or partnerships to purchase shares. That provision would maintain the 20 percent US citizen/owner requirement but has no sea time requirement. As under option 2, setting a citizen ownership threshold less than 75 percent would allow entities with less than 75 percent US ownership to hold shares that they could not deploy a vessel to harvest.

Option 4 would permit initial recipients of harvest shares to purchase shares, effectively exempting those participants from any citizenship or sea time threshold requirements.

Option 5 would limit ownership to US citizens eligible to document a vessel. This provision is unclear and should be revised, if it is to be adopted. Since 75 percent US citizen ownership is required for vessel documentation, the provision's limitation to US citizens that meet the documentation requirement is confusing. An alternative would be to simply require that a share holder be eligible to document a vessel.¹¹ The Council could choose an option from among these at this meeting. Since no analytical contrast would be provided by choosing different options for the different alternatives, the Council could consider a simplified option to advance in all alternatives.

Option 6 provides communities the right to purchase harvest shares. A decision on this provision should be deferred until a decision is made on the parallel community purchase provisions in Section 2.9.

Topic 6: Designation of catcher/processor shares on transfer

Sections 2.3.3.2 and 2.3.3.3 of the Council motion contains the following provision concerning the designation of catcher/processor shares on transfer of those shares:

- | | |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.3.3.2 | Restrictions on transferability of CP harvest shares |
| Option 1. | CP harvest shares maintain their designation upon transfer. |
| Option 2. | CP harvest shares maintain their designation when transferred to persons who continue to catch and process CP harvest shares at sea, if CP harvest shares are processed onshore after transfer, CP harvest shares converts to CV harvest shares. |
| Option 3. | CP harvest shares maintain their designation after transfer for 5 years following implementation, after which time any transfer of CP shares convert to CV shares. |
| 2.3.3.3 | Redesignate CP shares as CV shares upon transfer to a person who is not an initial issuee of CP shares: |
| Option 1. | all CP shares |
| Option 2. | trawl CP shares |
| Option 3. | longline CP shares |

These options would determine whether catcher/processor shares are redesignated as catcher vessel shares on the occurrence of some event, and possibly the passage of time. The decision of whether to redesignate catcher/processor shares as catcher vessel shares is a policy choice that could be made at this time. Under option 1 of 2.3.3.2, catcher/processor shares would maintain their designation on transfer. Under option 2 of 2.3.3.2, catcher/processor shares would maintain their designation on transfer, unless the harvest from the shares were landed and processed on shore, at which time the shares would be designated catcher vessel shares thereafter. Although the intention of this option is to allow continued use of catcher/processor shares as long as the holder has a continuous catcher/processor operation, it is possible that a catcher/processor

¹¹ This interpretation of the provision would include entities with 75 percent or more US ownership, but also those few vessel owners that have applied for and received waivers of that ownership requirement based on treaty exemptions to the requirement for past participants in US fisheries.

could lose its shares, if for some reason it is unable to process its shares on board some year. Under option 3 of 2.3.3.2, catcher/processor shares would retain their designation for 5 years. After 5 years, any transfer of the shares would result in redesignation of the shares as catcher vessel shares. This option would lead to the redesignation of all catcher/processor shares over time.

Under option 1 of 2.3.3.3, any transfer of catcher/processor shares to a person that was not an initial issuee would result in the redesignation of the shares as catcher vessel shares. Under option 2, this redesignation would apply to only trawl catcher/processor shares. Under option 3, only longline shares would be redesignated on transfer to non-initial issuees. No similar option exists for pot catcher/processor shares. Any of these provisions would create a skewed market for catcher/processor shares, as the number of initial issuees declines. As a result, the value of catcher/processor shares could be expected to decline as the number of initial issuees declines over time.

If the Council adopts a provision that results in the redesignation of catcher/processor shares, the Council will also need to provide for the designation of the resulting catcher vessel shares. For example, the Council should state whether the resulting catcher vessel shares would be subject to regional and processing landing requirements. The requirements will likely vary depending on the program that the Council chooses for harvest shares. One possible way that the redesignation could be simplified is to allow the purchaser of the shares to define their designation at the time of purchase. The share purchaser would have the choice of redesignating the shares as any type of catcher vessel shares.¹² Making share designations will be necessary to avoid creating a new class of harvest shares or leaving the share designation uncertain, which would further complicate administration of the program.

Topic 7: Processor licenses and linkages

Several different provisions affect the establishment of processor licenses and the linkage of harvest shares to processors. The following is a discussion of these issues at the most general level. After this discussion, the details of some of the regional and community bases for licenses are discussed including their implications for the processor licensing and processor/harvest share linkage issues.

The Council motion is ambiguous as to the level at which processors are determined. Section 3.1.2 provides for the issuance of processor licenses to processors that meet minimum processing requirements. The provisions of that section, however, do not specify whether these thresholds are applied at the company or plant level. Section 4.2.1.1 provides for catcher vessel cooperatives to associate with a processor, either at the facility level or at the company level. Plant level associations would create an obligation for the harvester's cooperative to deliver a certain percentage of its harvesters to the plant. Company level associations would create an obligation for the harvester's cooperative to deliver those harvests to any plant of the company. Section 3.1.2.5 provides that processing caps are applied at either the facility or entity level. These two later provisions suggest that processor licenses could be established at the plant (or facility) level, rather than at the company (or entity) level. The Council should clarify whether the intention is to define processors at either:

- 1) the company (or entity) level or
- 2) the plant (or facility) level.¹³

¹² The Council could limit the ability of the purchaser to change gear designations, if desired.

¹³ Note that even if the Council decides to define processors at the facility level for most purposes, it may wish to define processors at the company level for purposes of establishing caps.

Because of the different purposes served by these different provisions, the Council could choose to apply some provisions at the company level and others at the plant level.

The specific provisions are:

- | | |
|---------------------------------------|------------------------------------------------------|
| 3.1.2.5 Processing Caps may apply at: | |
| Option 1. | the facility level |
| Option 2. | the entity level |
| 4.2.1.1 Coop/processor affiliations | |
| Option 1. | No association required between processors and coops |
| Option 2. | CV cooperatives must be associated with |
| a) | a processing facility |
| b) | a processing company |

For purposes of issuing licenses, defining processors at the plant level would require that each plant a processing company owns meet the minimum processing requirements to obtain a license. A license would then be usable at a single plant. An alternative is to determine licenses at a company level. Under this rule, a processor could run multiple plants based on a single license. If the Council chooses to issue licenses at a company level, allowing a processor to run multiple facilities using a single license, the Council should consider whether to limit the number of facilities that can be supported by a single license.

If a program that includes cooperative/processor linkages is established at the plant level, a harvester's allocation would be linked to the plant to which it delivered the most fish. If a harvester delivered to two plants owned by a single company, it is possible that the company could lose the harvest share association to another company that the harvester delivered less fish to, because associations would be determined based on landings at a single facility. On the other hand, if harvester/plant associations are considered more critical than harvester/company associations, use of a company basis for determining linkages could lead to a harvester association that does not include the plant to which the harvester delivered the most fish. In addition, if a associations are determined at the company level, a company that chose to consolidate its processing from multiple facilities at a single facility, could compel a harvester whose shares are linked to the company because of its delivery to a single plant to deliver harvests to another of the company's plants, where the harvester has made no deliveries.

Choice of the level at which to apply use caps involves different policy implications than licensing and processor associations. Plant level application of the caps could lead to caps being illusory, if multi-plant processors spread landings across several plants to avoid the caps. Company level administration of caps would also prevent companies from distributing landings across several plants to avoid the caps.

Topic 8: Regionalization of harvest shares and processing licenses

Section 2.9.1 contains the following provisions concerning the regionalization of harvest shares and processing licenses:

If adopted, all processing licenses (for shorebased and floating processors) will be categorized by region.

- Processing licenses that are regionally designated cannot be reassigned to another region.
- Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught.
- Catcher processor shares and incentive fisheries are not subject to regionalization.
- Qualifying years to determine the distribution of shares between regions will be consistent with the preferred alternative under "Section 2.2 Qualifying Periods".

These provisions, when taken together with the harvest share/processor linkage provisions of Section 3.1, could create an inconsistency under which a harvester's shares could not be used. Section 3.1 contains provisions that would link a harvester's shares to the processor to which the harvester delivered the most pounds during the qualifying years. The harvester would be required to deliver a specific percentage of its harvests (between 50 and 100 percent) to the processor to which its shares are linked. Under the first two sentences from 2.9.1 above, processor licenses would be regionalized and could not be moved to another region. The fourth and fifth sentences would regionalize harvest shares based on the location of landings during the harvester qualifying years. If harvest shares are subject to processor linkages based on landing histories, some inconsistencies are likely to arise. For example, consider a harvester that made 35 percent of its deliveries to a processor in the North region and 65 percent of its deliveries to a processor in the South region. The harvester's shares would be designated 35 percent North and 65 percent South. The harvester would be linked to the processor in the South because the South processor received the most deliveries from the harvester. Any delivery requirement that would require the harvester to deliver in excess of 65 percent its harvests to the linked processor would result in the harvester holding undeliverable North shares.

An alternative approach that the Council could take would be to regionalize the harvester share/processor linkages. In that case, a harvester's shares in a region would be linked to the processor in the region to which the harvester delivered the most pounds during the qualifying period. So, in the example, the harvester's South shares would be linked to the South processor and the harvester's North shares would be linked to the North processor. The regionalization of linkages could be included in the motion by adding the following provision to 3.1.1.2:

In the event harvest shares are regionalized, a harvester's shares in a region will be linked to the processor in the region to which the harvester delivered the most pounds during the qualifying years.

If the Council intends to address this inconsistency in some other manner, the Council should provide guidance.

Topic 9: Community-based or region-based processing licenses

Section 3.1.2.3 would establish geographic restrictions on the transfer of processing licenses:

3.1.2.3 Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Option 1. Within the same community

Option 2. Within the same region

Under this provision, the Council could limit the transfer of processing licenses to either the region or community of origin. Geographic limitations on the transfer of licenses will limit the ability of industry to realize efficiencies by consolidating activity. If licenses are designated for communities, it is likely that value and utility of a license will vary significantly by community. Some licenses in remote communities could be made obsolete by the concentration of landings in less remote areas.

Regional restrictions on the transfer of processor licenses is consistent with the requirements of section 2.9.1. Although consistent with regionalization, the restriction of license transfers to a community goes beyond regionalization. The establishment of regionalization or community linkages for processing licenses should be consistent with the licensing rules for processing. These rules can be coordinated in a few different ways. Other ways of coordinating the rules could be developed.

Company-based licensing

Regionalized licenses

If a system of company-based processing licenses is established, a processor would receive a single license. That license could be used in a region, only if the processor achieved the minimum thresholds in the region. If a system of harvest share linkages is established, each harvest share would be regionalized by region of landing that led to the share allocation. So, a harvester could have shares in multiple regions. A harvester with shares in multiple regions would be eligible to join a single cooperative in each region. Each cooperative would be associated with the processing company to which the harvester delivered the most landings in the region in the qualifying period.

Community licenses

If a system of company-based processing licenses is established, a processor would receive a single license. That license could be used in a community, only if the processor achieved the minimum thresholds in the community.¹⁴ The license would not be severable. If a system of harvest share linkages is established, each harvest share would be regionalized by region of landing that led to the share allocation. So, a harvester could have shares in multiple regions. A harvester with shares in multiple regions would be eligible to join a single cooperative in each region. Each cooperative would be associated with

1. the processing company to which the harvester delivered the most landings in the qualifying period and could be delivered to any plant operated by that company, or
2. the processing plant to which the harvester delivered the most landings in the qualifying period. (This would create a community linkage for cooperatives.)

Plant-based licensing

Regionalized licenses

If a system of plant-based processing licenses is established, a processor would receive a license for each plant at which the processor met the threshold processing requirements. Each license could be used in any location in the region of origin and could be transferred independently of any other license held by a company. If a system of harvest share linkages is established, each harvest share would be regionalized by region of landing that led to the share allocation. So, a harvester could have shares in multiple regions. A harvester with shares in multiple regions would be eligible to join a single cooperative in each region. Each cooperative would be associated with the plant to which the harvester delivered the most landings in the qualifying period.

¹⁴ If a processor meets the threshold in total harvesting, but does not meet the threshold in any community, the processor could be issued a license for the community in which it processed the most landings.

Community licenses

If a system of plant-based processing licenses is established, a processor would receive a license for each plant that meets the threshold processing requirements. That license could be used only in the community of origin.¹⁵ If a system of regionalized harvest share linkages is established, each harvest share would be regionalized by region of landing that led to the share allocation. So, a harvester could have shares in multiple regions. A harvester with shares in multiple regions would be eligible to join a single cooperative in each region associated with the processing plant to which the harvester delivered the most landings in the region in the qualifying period. (This would effectively create a community linkage for cooperatives.)

Topic 10: Crediting of processing history

The Council motion contains the following provisions concerning the crediting of processing history:

- | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>3.1.2.2 Processor history would be credited to (and licenses would be issued to):</p> <ul style="list-style-type: none">Option 1. Operator - must hold a federal or state processor permit.Option 2. Facility owner <p>Suboption. Custom processing history would be credited to:</p> <ul style="list-style-type: none">i. the processor that physically processes the fishii. the processor that purchases the fish and pays for processing |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Confidentiality protections, aggregation of data across fisheries, and the unavailability of ownership records limit the ability of staff to provide any detailed quantitative analysis of this provision. Consequently, the Council should consider making a decisions on these provisions at this time.

Under the first provision, the Council would have the choice of crediting processing to either the owner of the facility or its operator. The provision would apply only if the owner of a processing facility differs from the operator. The provision could affect either processing licensing (which requires processing in excess of a threshold amount) or harvester/processor associations (which are dependent on the processor receiving the majority of a harvester's landings). Licensing could be affected if a processor does not meet the threshold for licensing because of the crediting of history to another entity during the period of a lease. The implications of the provision on both licensing and processor/harvester associations depend on whether licenses and associations are determined at the facility level or company level and also on the specific circumstances of the lease and the operation of the facility.

Arguments can be made for crediting either the owner or operator of a facility with the facility's processing history. From the standpoint of the operator of the facility, the operator could be argued to have taken a more active role in processing during the lease of a facility. In addition, if the Council chooses to establish processor linkages (or associations) at the company level, landings at a leased facility could affect the establishment of linkages. An operator of a leased facility that also owns another facility may collectively have enough history to establish additional linkages when it is credited with processing at the leased facility. On the other hand, from the owner's standpoint crediting history to the operator could deprive an owner (who acquired substantial history in the facility purchase) of a license for the facility. In addition, linkages with vessels that have a long history of deliveries to a plant could be lost, if landings are credit to the lessee. In

¹⁵ If a processor meets the threshold in total harvesting, but does not meet the threshold in a single community, the processor could be issued a license for the community in which it processed the most landings.

the end, the decision of whether to credit history to a facility owner or operator is policy driven. Both the owner and operator can be argued to have made a significant investment in fish processing; one through the ownership of a facility, the other through the active purchase, processing, and sale of fish.

A similar issue is whether the processing history arising out of custom processing is credited to the person that purchased the fish or the person that processes fish. Both entities can be argued to have made an investment in the processing industry and the fishery. The interests of these participants, however, differ. One operates the plant undertaking the processing of the fish; the other purchases the fish and sells the product onward. Specific implications of this provision cannot be estimated because of the aggregation of data in processing reports. As with the decision of whether to credit history to the owner or operator of a facility, the decision of whether to credit landings to the purchaser or processor of fish is a matter of policy.

Topic 11: Cooperative membership of processor affiliated vessels

Section 4.2.1.1 contains the following provision as a suboption:

Suboption 3. Processor affiliated vessels may join coops.

Since most of the program alternatives under consideration are mandatory cooperatives, the inclusion of this provision as a suboption is inappropriate. If a mandatory cooperative program is adopted and processor affiliated vessels are not permitted to join cooperatives, these vessels would not be able to receive annual harvest allocations. In a voluntary cooperative program, a processor's negotiating leverage with respect to its own vessels would be limited since cooperative formation and membership is voluntary. In a voluntary cooperative program, exclusion of processor owned vessels is likely to only limit the ability of the fleet to achieve efficiencies through voluntary associations. Unless some other interest is intended to be protected by this provision, the provision should be an element of any cooperative program without option.

Topic 12: Processor linkages for harvest shares

Section 3.1.1.2 of the motion contains the following provision concerning the linkage of catcher vessel harvest shares:

3.1.1.2 Linkage:

- Option 1. A harvester's processor linked shares are associated with the qualified fixed or trawl closed class large or small processor to which the harvester delivered the most pounds of groundfish during the last ____ years of the harvester allocation base period.
- Option 2.
- i. 1
 - ii. 2
 - iii. 3

If the processor with whom the harvester is associated with is no longer operating, the harvester is eligible to deliver to any qualified processor.

The last sentence of this section would allow a harvester that would associate with a defunct processor to deliver landings to any qualified processor. The Council should clarify whether any association would arise relative to these shares or if they are intended to be shares without processor association in perpetuity. If the shares are not associated with a processor, the harvester may not be eligible to join a cooperative (which may be required for the harvester to receive exclusive shares). A potential way to address this problem is to allow

the harvester that would be associated with a defunct processor to join any cooperative in the first year of the program, provided that on joining a cooperative the harvester's shares become subject to the same linkage of any other shares of the cooperative.

Topic 13: Penalties for moving between linked processors

The Council motion contains the following options concerning penalties for moving linked shares from one

3.1.1.3 Penalties for moving between linked processors

Option 1. No share reduction for moving between processor year to year

Option 2. Share reductions of 10-20% each time a harvester moves to a different linked processor for:

- i. 1 year
- ii. 2 years
- iii. 4 years

The share reduction shall be redistributed to:

- i. The shareholders in association with that processor that the shareholder left (if it continues to exist).
- ii. To all cooperatives in the sector on a pro rata basis. (applies if mandatory cooperatives)

Option 3. Penalty to move depends on the amount of open access B share fish. Vessel leaves A share for one year.

Suboption: Penalty applies to both A and B shares.

Closed A share class	Open B share class	Penalty on total amount of A and B shares	Ratio of penalty on A shares to B shares
90%	10%	10%	9:1
80%	20%	20%	4:1
70%	30%	30%	7:3
60%	40%	40%	3:2
50%	50%	50%	1:1

Option 4. One year penalty in open access.

Option 5. No penalty. Movement allowed only upon agreement between Coop members and affiliated processor.

processor to another:

The motion provides two potential types of penalties for the movement of shares between processors.¹⁶ In addition, the motion contains provisions that would have no penalty for the movement of shares and a total prohibition on the movement of shares. The Council should consider whether the no penalty option and the no movement option are reasonable alternatives. In the case of the no penalty option, one may question whether the administrative burden of developing an elaborate system of linkages is appropriate, if the linkages are binding in no way. The option that would prevent any movement of shares might be considered

¹⁶ Under the current alternatives, this would apply only to the movement of shares between cooperatives. The only provisions for an exclusive (or protected) share allocation is within a cooperative.

unreasonable, if the Council intends any processor competition for landings of A shares or the development of efficiencies in A share landings under the program.

In considering the two different penalty provisions, the Council should consider its purpose for establishing penalty provisions and the potential effects of the different options. The share reduction penalty should provide a relatively clear and predictable indication to harvesters and processors of the cost of the movement of shares that will allow the harvest share holder and both of the processors involved to determine whether to bear the cost movement and the cost of preventing the movement. For example, if a harvester is faced with the opportunity to relocate to a different processor, the cost of a share reduction penalty would be its loss of returns on that year's of the penalty amount. For a harvester to make the move it must believe that the new processor will pay an ex vessel price that will compensate for the penalty. This may take a few years or could be accomplished by the processor paying a bonus in the first year to cover the cost of the penalty to the harvester. For the processor that is trying to attract the harvester, the cost of establishing the new linkage are payments (either ex vessel prices or a one year bonus) that are higher than that of its competitor by enough to cover the one-year penalty. To the processor that may lose the share linkage, the cost of keeping the harvester is the payment of an ex vessel price that is not so far below the price of the competitor's that the one-year penalty would be compensated for by the competitor.

The open access penalty has an entirely different structure that makes it far less predictable. If the open access fishery has several participants that are moderately successful in an open access fishery, a very good competitor in an open access fishery may face a very limited penalty for a year in the open access. Participants in the open access are likely to be less efficient, but it is possible that a competitive participant may be able to make up for the loss of efficiency through increasing harvests. On the other hand, if the open access fishery has many competitive participants, a harvester that is accustomed to working in a cooperative may perceive a large penalty for participating in the open access fishery. This participant is likely to suffer a loss of efficiency and a loss of catch to harvesters that are geared toward participation in an open access fishery. The reduction of the bycatch allocation to the open access will increase the penalty in fisheries that are constrained by their bycatch allocations. Bycatch could also be a much greater constraint on harvests in the open access fishery where harvesters race for catch during a potentially limited season. The penalty of requiring a year in an open access fishery, however, cannot be predicted and may vary over time and across sectors. In some years with few open access participants, the penalty could be minimal. In other years with several competitive participants, the penalty could be great. Participation and competitiveness of participants is likely to vary across sectors. In addition, the penalty is likely to vary substantially across share holders. Share holders that are able to effectively compete in the open access are likely to face a substantially lower penalty from an open access year than share holders that are less able to compete.

A second issue that arises in considering whether an open access penalty is workable and reasonable is whether some harvesters may be able to use gamesmanship to take advantage of the open access. For example, a harvester may choose to move small quantities of shares through the open access from year to year to enable participation in the open access. If any share holder that has shares in the open access is permitted to fish the open access, it is possible that some participants may use the open access in this manner. By moving shares a few shares through the open access, the harvester will have the right to participate to the detriment of those harvesters attempting to use the open access as intended. One alternative to overcome this problem is to require that a harvester move all of its shares through the open access. Under this approach, all of a harvester's shares would be effectively blocked, so that all movement and transfer of shares would be all-or-nothing.¹⁷ Using this structure, however, is likely to prevent the realization of efficiencies under the program. as harvesters try to reconfigure from their initial allocations to develop a good working multispecies

¹⁷ In the absence of blocking shares, the ability of harvesters to use holding companies

portfolio of shares. Since some of these trades may be required to be across cooperatives (and processors) a rule that prohibits division of initial allocations may not be workable for accomplishing this end.

Topic 14: Cooperative Formation and Rules

Several provisions in the Council motion together define the rules for cooperative formation, movement among cooperatives, and participation in the fisheries inside and outside of cooperatives. These provisions together are likely to impact the internal rules of the cooperatives, which in turn will affect the return that different participants are able to realize from their allocations. If these provisions are not carefully developed, some participants may be inadvertently affected by differences in negotiating strength across members of a cooperative. For example, in a cooperative composed primarily of pollock fishermen, a cod fisherman could have little leverage for changing rules to reasonably accommodate cod fishing. In the extreme, share holders with little or no direct activity in fisheries could control the harvests of active participants, if the active participants have no reasonable alternative to joining a cooperative. In considering rules, the Council should be wary of rules that create incentives to modify share holdings. A rule that requires 90 percent of eligible share holders¹⁸ for cooperative formation may create an incentive for a single share holder to subdivide holdings among his friends and family to impose his will on other eligible share holders. This section briefly reviews some of the rules that govern cooperatives and raises several questions concerning the interaction of different influences. In assessing the options, the Council should consider whether adequate information is provided here to make decisions concerning which rules should be advanced and whether additional provisions should be added that might enable the Council to better balance interests of participants.

In analyzing the rules governing cooperatives, it is necessary to consider the different alternatives under consideration. For catcher vessels, these include voluntary cooperatives, mandatory cooperatives with a closed class of processors, and mandatory cooperatives with processor linkages. For catcher/processors the only alternatives are in the form of mandatory cooperatives. Each of these alternatives is discussed in turn. Before examining the details of the different alternatives, development of a few general concepts can help frame the discussion.

In general, the assessment of the relative power of participants in a cooperative depends on several factors. These determinants of negotiating strength can be generalized to two categories, internal and external. Internal effects are generated by the rules governing cooperatives, such as rules of cooperative formation and any rules that define membership. External effects, which are equally important, are generated by the outside options available to a harvester that chooses not to join a cooperative. For example, a person's negotiating leverage with respect to another is highly dependent on the ability to walk away from a transaction and pursue other opportunities. In the context of these cooperatives, the harvester's negotiating strength with respect to members of a particular cooperative depend on the ability of the harvester to choose not to join the cooperative and remain in the fishery. In the discussion that follows both internal and external affects are considered.

Voluntary cooperatives

A voluntary cooperative program is one in which harvesters receive an exclusive allocation (i.e., IFQs) regardless of cooperative membership. A voluntary cooperative program is under consideration for the "low producing" fixed gear sector under alternative 2. Since a harvester may choose to fish IFQs in a voluntary cooperative program, the negotiating strength within a cooperative is of less concern. If a cooperative arrangement is not in the harvester's interest, the harvester has several options, including joining another

¹⁸ Changing the wording from "the holders of 90 percent of eligible shares" to "90 percent of the holders of eligible shares" substantially changes the incentives.

cooperative, forming another cooperative, and fishing IFQs. As a consequence, members of a cooperative derive little negotiating leverage with respect to others from the rules that govern cooperatives.

Mandatory cooperatives with processor linkages

In a mandatory cooperative structure, a harvester will receive an exclusive allocation only by joining a cooperative. In a mandatory cooperative structure with processor linkages, a harvester would receive an exclusive allocation only by joining a cooperative that is associated with a particular processor. Such a structure would apply to trawl catcher vessels under alternative 2 and all catcher vessels under alternative 3.

Under this structure, a harvester's may have a few outside options. Depending on the alternative, the harvester may be able to elect to participate the open access fishery. The harvester may also be able to change cooperatives. This change of cooperatives could have different consequences for the harvester depending on the alternative and the circumstances. If the Council chooses cooperative rules that result in a single cooperative associated with a processor, movement between cooperatives would require changing processors. Having a single cooperative associated with a processor could occur under either of the applicable options governing formation.¹⁹ Under the first applicable option, at least 50 percent of the shares eligible for a cooperative must be held by members for cooperative formation (Section 4.2.2, Option 4). Under this rule, only one cooperative could be formed in association with each processor. Under the second applicable option, four distinct harvest share holders would be required for cooperative formation. Under this rule, some small processors might have a single cooperative. In either instance, if a separate cooperative associated with the processor cannot be formed, a harvester's outside option to participating in a cooperative would be to move to a cooperative associated with a different processor. These movements would be subject to either a share reduction penalty or a penalty year in the open access fishery. As a result, the cooperative could have substantial leverage in dealing with minority members, unless other aspects of the program provide minority members with negotiating strength.²⁰

One reasonable protection that could mitigate harm to minority cooperative members is to require that a cooperative accept membership of any eligible participant subject to the same terms and conditions that apply to other cooperative members. A provision of this type is included in the AFA cooperative program.²¹ This provision, in and of itself, may be inadequate for protecting minority interests particularly if participants have very different portfolios of harvest shares. For example, a cooperative agreement's rules may apply the same to cod fishermen and pollock fishermen, but the rules could favor one group of fishermen over the other.

Rules that govern cooperative formation also could mitigate the potential for minority interests to be subsumed by a majority in a cooperative. Adoption of a rule that requires holders of 50 percent of the eligible harvest shares for cooperative formation would allow the creation of a cooperative by holder's of that majority subject to rules very favorable to that majority. The rules governing formation would prevent others eligible for the same cooperative from forming a separate cooperative associated with the same processor. On the other hand, if a cooperative is required to have 90 percent of the shares eligible for the cooperative

¹⁹ Two of the rules governing formation of cooperatives are sectoral rules that do not apply to processor linked cooperatives.

²⁰ Processors that are associated with a cooperative that asserts this leverage over minority members could be harmed, if minority members move between cooperatives.

²¹ See AFA, section 210(B)(2).

for formation, the holders of the majority of shares would be unable to meet the threshold if they establish rules that are unacceptable to more than 10 percent of eligible shareholders. Although a high threshold for cooperative formation could protect minority members, setting a threshold too high could create difficulties. For example, a high threshold could prevent cooperative formation altogether, if some eligible members are determined to fish in the open access regardless of the terms of the cooperative agreement. Similarly, a high threshold could provide a small minority with excessive leverage in negotiating terms of the cooperative, if a large majority of members would require its consent for cooperative formation.

The alternative rule governing cooperative formation - the rule that requires four distinct harvesters for cooperative formation - would provide harvesters with substantial flexibility in the formation of cooperatives. Several cooperatives could be formed in association with a single processor, if eligible share holders have difficulty reaching compromises concerning harvest of shares. Although efficiencies in harvesting and management could be sacrificed if very many cooperatives are formed, the interests of the different share holders are less likely to be jeopardized by a cooperative majority.

Mandatory cooperatives with a closed class of processors

Under this alternative, a cooperative would receive an exclusive annual allocation based on its members harvest share holdings. Cooperatives would be required to deliver a specified percentage of harvests to processors in a closed class. This structure could apply to trawl catcher vessels and would apply to “high producing” fixed gear catcher vessels under alternative 2.

Under this structure, participants could have a few outside options to joining a cooperative. First, to have a reasonable working system of cooperatives, this structure might best support several cooperatives. In the current options for cooperative formation, only the requirement of 4 distinct shareholders would allow multiple cooperative in each sector (4.2.2, Option 1). Assuming that this criterion for formation is used, then several cooperatives could be formed in any sector. Since the only eligibility criterion would be share holdings, a harvester would be able to join one of several cooperatives limiting the ability of any cooperative to impose unfair or onerous terms for cooperative members.²²

Mandatory cooperative for catcher/processors

Under both alternatives 2 and 3, catcher/processors would be subject to a mandatory cooperative program that would require cooperative membership for an exclusive allocation. In the current motion, all catcher/processors appear to be treated as a single sector under alternative 2. Under alternative 3, catcher/processors would be separated into three sectors based on gear type - trawl, longline, and pot.

The ability of a majority in a cooperative to exert unfair negotiating leverage over minority members will vary with the rules adopted for cooperative formation and the rules governing the open access fishery. If a rule is adopted that requires a majority or more of the harvest share holders or harvest shares, a harvester in this sector would not have the ability to move among cooperatives in the sector.²³

²² A harvester would also have the ability fish in the open access fishery, although the bycatch reductions and uncertainties of the open access fishery limit its appeal.

²³ Depending on the alternatives defined by the Council, an alternative to cooperative membership could be participation in the open access fishery. As noted earlier, any bycatch reduction, the level of competition, and the circumstance of the individual harvester will determine the extent to which the open access fishery is a reasonable option for a harvester faced with an unreasonable cooperative agreement.

If the Council instead adopts a rule that requires 4 distinct share holders for cooperative formation, a catcher/processor could either join another existing cooperative or attempt to form a separate cooperative, if the rules of a cooperative are viewed as unfair. The extent of opportunities in this case could depend on whether catcher/processors are considered a single sector or separated into three sectors by gear type. Pot catcher/processors might have only one or two cooperatives because few catcher/processors participate with pots. In any case, additional opportunity for participation in a cooperative would result since each sector could support multiple cooperatives.

Topic 15: Processor caps

The Council motion contains provisions that would limit the amount of harvests that a closed class processor can process (see section 3.1.2.4). The motion also contains provisions that prohibit the ownership of small processor licenses by the holders of large processor licenses and fixed gear licenses by trawl/fixed gear license holders (see section 3.1.2.6). The motion, however, contains no provision that limits stacking of licenses more generally (i.e., no processor may hold more than ____ licenses that support the same processing activity). Such a provision may be important for ensuring competition and providing for entry to the processing sector, particularly if the Council pursues options that segment the market for landings by region and gear type. If a few processors hold all of the licenses for a region, they could control the market with no possibility for entry or competition from new entrants.

Topic 16: Crediting trawl harvests from SEO in the WYAK allocation

Section 2.1 contains the following bullet:

- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation

Staff assumes that the Council intends this allocation to credit history of trawl vessels that participated in SEO, who have been displaced by the trawl closure in that area, which began in April of 1998. One interpretation is that trawl vessels will be credited catch history for target species in SEO prior to the closure. All pounds of target species harvested in SEO would be counted as if caught in WYAK. Bycatch allocations to these trawl vessels in WYAK would be made in accordance with the rules for allocating bycatch, but would not consider bycatch harvests in SEO. In other words, since bycatch allocations are determined based on bycatch rates in the different target fisheries, the trawl bycatch rates would be calculated based on bycatch in WYAK (not counting any SEO bycatch). Any trawl vessels that receive a target allocation in WYAK (including those that receive an allocation based on credited trawl harvests in SEO) would be allocated bycatch in WYAK based on the trawl bycatch rate in WYAK. If the reference to shortraker/rough eye and thornyhead is to be interpreted differently, the Council should advise staff of its intention.

Topic 17: Individual and vessel caps

Section 2.3.3.7 of the Council motion contains the following provision concerning individual and vessel use caps:

2.3.3.7 Separate and distinct harvest share use caps

Vessel use caps on harvest shares harvested on any given vessel shall be set at two times the individual use cap for each species. Initial issues that exceed the use cap are grandfathered at their current level as of a control date of April 3, 2003; including transfers by contract entered into as of that date. Caps apply to all harvesting categories by species with the following provisions:

1. Apply individually and collectively to all harvest share holders in each sector and fishery.
 2. Percentage-caps by species are as follows (a different percentage cap may be chosen for each fishery):
 - i. Trawl CV and/or CP (can be different caps):

Use cap based at the following percentile of catch history for the following species:
(i.e., 75th percentile represents the amount of harvest shares that is greater than the amount of harvest shares for which 75% of the fleet will qualify.)

pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish,
flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch,
pelagic shelf rockfish

Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %
 - ii. Longline and Pot CV and/or CP (can be different caps)
based on the following percentiles of catch history for the following species:
Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if
Greenland turbot is targeted), northern rockfish
3. Conversion of CP shares:
 - i. CP shares converted to CV shares
Option 1. will count toward CV caps
Option 2. will not count toward CV caps at the time of conversion.
 - ii. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP shares to CV shares alone will not require a CP shareholder to divest CP shares for exceeding the CP share cap.

The provision is confusing for a few reasons. First, including the vessel cap provision prior to the individual caps, which are used to define vessel caps, is confusing. Staff suggests that the vessel use cap provision be moved to the end of 2.3.3.7. Second, the provision concerning grandfathering of initial allocations is prior to the individual caps, suggesting that the grandfather provision may not apply to the individual caps. This provision should be the last sentence in the section, if it is intended to apply to both individuals and vessels. Also a parenthetical "(individual or vessel)" would clarify this issue. Third, adding the words "Individual use" to the beginning of the third sentence will clarify that the numbered paragraphs (1-3) are intended to define the individual use caps. The result of these three changes is shown in Section 2.3.3.7 of Attachments A2 and A3.

In addition, Council should clarify with staff how the use caps are to be interpreted and applied across sectors. Specifically, the Council should specify whether caps are to be applied within each sector (i.e., the high producing fixed gear catcher vessel shares caps would be calculated and applied as a percentage of the pool of high producing fixed gear catcher vessel shares). In addition, if transfers of shares across sectors are

permitted, the Council should specify whether those transfers would affect the application of caps (i.e., should provisions similar to those in 3 be developed for transfers across gear types).

Topic 18: Responsibility for harvests

Section 2.5.1 of the motion contains the following three provisions concerning responsibility for harvest of allocations of hook and line and trawl entities:

2.5.1	Accounting of Halibut Bycatch
	Pot vessels continue their exemption from halibut PSC caps.
	Hook and line and trawl entities
Option 1.	Same as that under IFQ sablefish and halibut programs
Option 2.	Cooperatives would be responsible for ensuring the collective halibut bycatch cap was not exceeded
Option 3.	Individual share or catch history owners would be responsible to ensure that their halibut bycatch allotment was not exceeded

The intent of some of these provisions is unclear. The pot vessel exemption from halibut PSC limits is clear.

The intent of option 1 is unclear. It is assumed that this is intended to either continue certain aspects of the status quo for or extend some aspect of the status quo to hook and line and/or trawl gear. The Council should be explicit concerning the options that staff should analyze for the different gear types and participants. If the provisions apply differently to the different gear types, the provision might be clearest if trawl is separated from hook and line. In addition, sablefish IFQ holders could be separated from other hook and line participants for clarity. Possible interpretations are that current management of halibut should be continued for:

- a) sablefish IFQ holders and/or
- b) all hook and line participants in the Gulf and/or
- c) trawl participants in the Gulf.

Sablefish fish IFQ holders are currently exempt from limitations on halibut bycatch, although an estimate of that fisheries halibut bycatch is accounted for in setting the halibut TAC. Other longline harvesters are allocated halibut PSC, which is monitored inseason using observer data. This management could continue. Alternatively, bycatch of PSC halibut by longline participants (including or excluding sablefish IFQ holders) could be managed by allocation of shares of PSC halibut. Under this approach, PSC halibut allocations and management could be as described in 2.5 and its subsections.

For trawl participants, the current management could be continued under which trawl vessels halibut bycatch is managed by an allocation of halibut PSC. Alternatively, halibut bycatch by trawl vessels could be managed by the allocation of PSC quota, as described throughout 2.5.

The Council should consider restating the options explicitly, separating the options by gear and fishery to the extent that the options are differ across participants.

Options 2 and 3 in their current form are likely unnecessary. The second bullet of Section 4.3.1 provides that the cooperative would management and be responsible for harvest of a cooperative's allocation and the cooperative members are jointly and severally liable for the harvests. Given joint and several liability provided for by the second bullet in section 4.3.1, the cooperative and its members (including the individual

share holder) are each responsible for the harvests. In an IFQ alternative (without cooperatives), the individual share holder would always be responsible for individual harvests. In either case, the intention of the option in 2.5.1 seems redundant with provisions that govern all catch (including halibut PSC harvests). Inclusion of these two options suggest that liability for halibut PSC harvests is subject to different rules from other target and bycatch harvests. Unless different rules are intended to govern PSC harvests, options 2 and 3 should be omitted.

Section 2.5.5 of the motion contains the following provision concerning the retention of halibut caught by longline :

2.5.5 Retention of halibut bycatch by longline vessels

Halibut bycatch may be retained outside the halibut season from Jan 30 to start of commercial fishery, and from end of commercial fishery through December 15.

- | | |
|-----------|-----------------------------------------------------------------------------|
| Option 1. | retention is limited to (range 10-20%) of target species |
| Option 2. | permit holder must have sufficient harvest shares (or IFQ) to cover landing |

This provision appears to be directed toward permitting halibut landings outside of the current halibut seasons. In considering this aspect of the program, the Council should bear in mind that permitting holders of halibut longline PSC shares to retain halibut will likely result in a change in the allocation of that species to the halibut fishery and the Gulf groundfish fisheries. In light of that prospect, the inclusion of the IFQ requirement as an option (as opposed to having the provision as a mandatory part of a provision for halibut retention) is unclear. **The Council might consider including option 2 as a requirement (rather than an option), unless it intends to change the halibut allocation to the Gulf groundfish fisheries.**

On its face a provision that permits retention of halibut bycatch that would otherwise be discarded has appeal for its potential to reduce mortality. This provision, however, is not without complication and could create some unintended incentives. The Council should consider that any provision to permit halibut retention outside of the current season will require approval of the IPHC. Whether the IPHC would grant such an approval is uncertain.

Second, permitting retention of halibut bycatch could also increase the cost of accounting in the halibut IFQ program and change rules governing overages, underages, and transfers. RAM Division requires a minimum of approximately 5-6 weeks between seasons to reconcile overages, underages, and share transfers and issue IFQs for the upcoming season. Any provision that would permit retention of halibut in the period between annual seasons is likely to disrupt this accounting system. Although it is possible to develop a system for the reconciliation of accounts if retention of out of season halibut bycatch is permitted, substantial additional accounting costs are likely to be incurred and limitations on harvests and transfers are likely to be necessary. The Council should question whether this additional cost and the significant modifications to the halibut and sablefish IFQ program are appropriate for the retention of halibut bycatch during this brief period between seasons. In addition, since the halibut season is closed during this period, it is possible that some participants in the rationalized Gulf fisheries may top off with (or make minimal effort to avoid) halibut to take advantage of the constrained market when prices might be highest. Even if a harvester does not top off with halibut during this time, the harvesters with the highest bycatch amounts could receive the greatest economic benefit from out of season high prices, while the entire fishery bears the additional management cost.²⁴

²⁴ Unless otherwise specified by the Council, the increased accounting costs would be derived from the cost recovery program. As a consequence, the added cost arising out of the out of season bycatch retention would be born by the entire fleet, not only those that receive the potential benefit of the retained harvests.

Topic 19: Sideboards

The Council motion contains the following sideboard provisions in section 2.12:

2.12 Sideboards

GOA Groundfish sideboards under the crab rationalization plan and under the AFA would be superceded by the GOA rationalization program allocations upon implementation.

Participants in the GOA rationalized fisheries are limited to their historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

Vessels (Steel) and LLPs used to generate harvest shares used in a co-op may not participate in other federally managed open access fisheries in excess of sideboard allotments.

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

The second provision and the fourth provision are very similar. Typically, harvest sideboards have been imposed on aggregate harvests, as individual limits are too difficult and costly to enforce. One of those two sentences should be removed unless a difference is intended. In addition, the Council should consider adding sideboards for the Gulf jig fishery, which will not be included in the rationalization program.

In addition, the Council should also consider whether sideboards for SEO groundfish are appropriate if the Council intends to include an allocation of bycatch to participants in the Gulf groundfish fisheries.

Topic 20: Owner on board requirements and vessel length categories

The Council motion includes the following provision concerning owner on board requirements with possible vessel length categories:

2.3.3.8 Owner On Board Provisions

Provisions may vary depending on the sector or fishery under consideration (this provision may be applied differently pending data analysis)

- i. All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued harvest share units.
 - Suboption 1. No owner on board restrictions.
 - Suboption 2. A portion (range of 5-100%) of the quota shares initially issued to fishers/harvesters would be designated as "owner on board."
 - Suboption 3. All initial issuees (individual and corporate) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares for a period of 5 years after implementation.
 - Suboption 4. Shares transferred to initial issuees in the first 5 years of the program would be considered the same as shares initially issued (range of 5 -100% of the quota shares). See above NOTE
 - Suboption 5. "Owner on board" shares transferred by initial issuees, after the grace period, would require the recipient to be aboard the vessel to harvest the IFQ.
 - Suboption 6. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of (Range 1-3 years).
- ii. Vessel categories for owner on board requirements
 - Option 1. No Categories
 - Option 2. Vessel Categories as follows
 - Vessels < 60'
 - Vessels >= 60' and < 125'
 - Vessels >= 125'

The provision contains a range of possible owner on board requirements. Prior to completion of the EIS, the Council will need to decide specific owner on board requirements and the shares to which those requirements will apply.

The application of owner on board designations under Part i. are not entirely clear. Specifically, the interactions of suboptions 4 and 5 with the suboption 2 raises some questions concerning the share designations. Suboptions 2 would create owner on board requirements Under Suboption 2, some percentage of each initial allocation would be designated as "owner on board" shares, while the remaining shares would not have the owner on board designation. This suggests that a share holder could buy or sell shares that have the designation independently. Over time, some persons might hold all owner on board shares; others might hold all shares without that designation. Suboption 4, however, provides that shares purchased by an initial issuee in the first 5 years would be designated the same as shares initially issued (i.e., the same percentage of purchased shares would be subject to the owner on board designation as the initial allocation). On its face, this provision would result in the redesignation of shares on transfer, but only in the case of purchase by an initial issuee. Consider an example in which the Council decides to designate 50 percent of each allocation as owner on board. If a persons sold 100 shares with the owner on board designation to an initial issuee, 50 of those shares would have the owner on board designation removed. Similarly, if a person sells 100 shares without the designation to an initial issuee, 50 shares would be redesignated as owner on board. The intention of the provision could be to apply the grandfathering provision in the introduction of i. to only those shares initially allocated (and not to shares purchase by intial issuees). If this is the intention, suboption 4 is

unnecessary, since the grandfather clause provides that its exemption applies only the initial allocation and not to transferred shares. If the provision is intended to serve some other purpose, that intention should be clarified. Suboption 5 suggests that the owner on board exemption applies to all shareholders in the first 5 years. This appears inconsistent with all of the other grandfather clauses in the section. The provision is not necessary and can be deleted, unless it is intended to somehow modify some of the grandfathering provisions. **Staff has proposed a clarification to this provision in Attachments A2 and A3.**

Part ii. of this section contains possible vessel categories to which the requirements would apply. The categories created would be based on vessel length only. This provision is the only reference to vessel length in the Council's motion. The reference creates some confusion concerning the possible application of vessel length categories to shares. The Council should clarify:

- If shares are categorized by vessel length, would the length designation be based on the LLP designation.
- Would those vessel length designations limit the ability of a vessel owner to use the shares on a vessel of a different length (or simply create owner on board requirements for the use of the shares).
- If vessel length designations are intended to be created, the Council will need to specify the rules governing use of shares. For example, could shares from a vessel category be used on a smaller vessel. (Under the LLP, licenses can be used on a vessel smaller than the MLOA.) If those shares are used on a smaller vessel, would owner on board requirements applicable to the shorter vessel length apply and would the shares be redesignated permanently for use on the shorter vessel length.
- How would the vessel length requirements interact with cooperative rules and formation requirements under the different alternatives. Would shares of different vessel length categories be permitted in a single cooperative. If so, how would the use of the shares be limited by the vessel length rules and owner on board rules. If these provisions are intended to apply only to IFQ program alternatives, the introduction could limit the application of the provision to the "low producing" fixed gear vessels under alternative 2, the only sector that would be subject to an IFQ program. The provision could also be applied to halibut and sablefish IFQ holders that receive allocations.

The Council should clarify any rules related to vessel length.

Topic 21: Leasing provisions

Section 2.3.3.6 of the Council motion contains the following provision concerning the leasing of shares:

2.3.3.6 Leasing of QS ("leasing of QS" is defined as the transfer of annual IFQ permit to a person who is not the holder of the underlying QS for use on any vessel and use of IFQ by an individual designated by the QS holder on a vessel which the QS holder owns less than 20% -- same as "hired skipper" requirement in halibut/sablefish program).

- | | |
|-----------|------------------------------------------------------------------------------------------------------------------------------------|
| Option 1. | No leasing of CV QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ). |
| Option 2. | No leasing of CP QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ). |
| Option 3. | Allow leasing of CV QS, but only to individuals eligible to receive QS/IFQ by transfer. |
| Option 4. | Allow leasing of CP QS, but only to individuals eligible to receive QS/IFQ by transfer. |
| Option 5. | Sunset [CP - CV] QS leasing provisions [3 - 5 - 10] years after program implementation. |

The leasing provisions appear to be directed toward the same end as the owner on board provisions of section 2.3.3.8 of the Council motion. The Council might consider whether its purpose could be served by including only one of these provisions in an alternative.

Options 3 and 4 do not serve an obvious purpose. These provisions would permit leasing of shares to anyone that is eligible to receive shares. In the absence of a prohibition on leasing, persons eligible to receive shares would be permitted to lease shares. Since persons ineligible to receive shares could not lease shares in any case, these options might not be necessary.

If the Council elects to include leasing prohibitions in an alternative, the application of the options should be clarified. The Council should specify whether the provisions apply to all vessels and sectors or whether the provisions would apply only to certain sectors (i.e., “low producing” fixed gear shares or halibut and sablefish IFQ holders). In addition, if the provisions are applied to sectors that are governed by cooperative programs, the application of the provisions to shares fished by cooperatives should be specified.

Topic 22: Deliveries to catcher processors

Section 2.3.3.12 of the Council motion provides:

2.3.3.12 Processing Restrictions

Option 1. CPs may buy CV fish

Suboption. 3 year sunset

Option 2. CPs would be prohibited from buying CV fish

Option 3. CPs are not permitted to buy fully utilized species (cod, pollock, rockfish, sablefish, and allocated portion of flatfish) from CVs.

Suboption. Exempt bycatch amounts of these species delivered with flatfish.

The Council should clarify its intent in this provision. Specifically, the Council should clarify whether the provision applies to deliveries of harvest with A shares (designated for delivery to a qualified or associated processor) and/or B shares (which can be delivered to any processor). If the Council elects to limit deliveries of A shares to catcher/processors that might prevent catcher/processors that have historically accepted deliveries from catcher vessels from continuing that practice. Also, the Council should clarify whether deliveries of “low producing” fixed gear catcher vessels can be made to catcher/processors under alternative 2. The Council should maintain consistency with section 3.1.1.1 of the Council motion, which provides for rules governing the delivery of B share landings (which can be delivered to any processor). That section provides:

3.1.1.1 Closed class delivery requirements

Option 1: 50-100% of CV harvest share allocation will be reserved for delivery to:

- i. the linked qualified closed trawl or fixed class processor (or)
- ii. any qualified closed trawl or fixed or large or small class processor

The remaining (50 -0%) CV harvest share allocation can be delivered to:

- i. any processor excluding CPs
- ii. any processor including CPs

Option 2. Low producing vessels are exempt from closed class delivery requirements

The second part of option 1 contains options that would prohibit or permit the delivery of B shares to catcher/processors. In choosing appropriate options for this provision, the Council should be clear as to whether “low producing” fixed gear catcher vessels would be permitted to deliver harvest to catcher/processors.

Application of any rule that limits processing by catcher/processors will require that catcher/processors be defined. Definition of this sector can be problematic because vessels used as catcher/processors may also be used as floating processors. For purposes of implementing this provision, the Council must decide when a vessel is acting as a floating processor, as opposed to a catcher/processor. The current regulations that define catcher/processors and define the inshore and offshore components of the GOA groundfish fisheries may be useful in developing an appropriate rule. Under the regulations, a catcher/processor is a vessel that is used for catching fish and processing that fish. The regulations also separate the TAC in the GOA groundfish fisheries between an inshore sector and an offshore sector. Processing in the inshore sector is limited to shore plants, stationary floating processors (which must operate within State waters in a single geographic location during a season when processing pollock or Pacific cod), and small processing vessels (including catcher/processors and processors which are less than 125 feet LOA and process less than 18 metric tons of pollock and Pacific cod per day). Vessels may not participate in both the inshore and offshore components in a single year, so the offshore component is defined as processors not in the inshore component. The Council may wish to modify this definition if it intends to limit processing by catcher/processors under the rationalization program.

Topic 23: Incentive fishery participation

The Council motion contains the following provision concerning participation in the incentive fisheries:

- | | |
|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.6.1 | Eligibility to fish in the incentive fisheries |
| A. | The unallocated QS for the incentive fisheries are available for harvest, providing the vessel has adequate PSC and bycatch species and the vessel is a member of a GOA fishing cooperative. |
| B. | Any quota holder qualified to be in a coop. |

This provision is unclear concerning eligibility to participate in the incentive fisheries. The two lettered paragraphs appear to be options, but the application of these options under the alternatives is unclear. Under A, only cooperative members that have adequate PSC and bycatch are permitted to participate in the incentive fisheries. Under alternative 2, this provision could prevent “low producing” fixed gear catcher vessel share holders that choose not to join cooperatives from participating in the incentive fisheries. In addition, halibut and sablefish IFQ holders that receive bycatch allocations would be excluded from the incentive fisheries.

Under B, only halibut and sablefish IFQ holders that are not also considered part of the rationalization program would not be permitted to fish the incentive fisheries. Under this provision, even members of the open access fishery would be permitted to fish the incentive fisheries. Participation of open access participants in the fishery, however, is not well-defined. Open access participants could be permitted to harvest incentive species as long the open access fishery remains open and adequate PSC and bycatch are available. A possible revision to this section is provided in Attachments A2 and A3.

Topic 24: Incentive fishery accounting

Section 2.6.2 of the Council motion provides:

2.6.2	Catch accounting for the incentive fisheries - Allocated QS and Incentive fishery quota
Option 1.	The individual coop member's apportionment of the allocated incentive species QS must be used prior to the individual gaining access to the incentive fishery unallocated portion. The coop will notify NMFS when a vessel enters the incentive fishery quota pool.
Option 2.	The coop's allocation of incentive species QS must be fished before gaining access to the unallocated portion of the incentive species quotas. The coop members through a contractual coop agreement will address catch accounting amongst the coop members.
Option 3.	For vessels not participating in a sector coop, the unallocated incentive species are available for harvest once the non-coop sector's allocation of the incentive species has been used or individual IFQ holder's allocation of the incentive species has been used.

These options in this section provide that a participants allocation of an incentive species must be fished prior to gaining access to the unallocated portion of the incentive species TAC. Options 1 and 2 address cooperative participation in the incentive fishery. Under option 1, an individual's harvest of an incentive species is deducted from the incentive species TAC as soon as the individual's allocation is harvested. This would allow an individual to begin fishing off the unallocated TAC despite the individual's cooperative holding unused shares of the incentive species. Under option 2, a cooperative's entire incentive species allocation must be used prior to harvest of an incentive species being deducted from the unallocated portion of the incentive species TAC. Option 3 provides for accounting of incentive species for non-members of cooperatives. Under this option, an individual would begin fishing off the unallocated TAC only after the individual's allocation of incentive species is harvested. This provision could be applied to participants in the "low producing" fixed gear catcher vessel share holders under alternative 2 and halibut and sablefish IFQ holders under either alternative. No provision for the accounting of open access participants' harvests from the incentive fisheries is provided. A possible provision is included as option 4 in Section 2.6.2 of Attachment A2 and A3.

Topic 25: Eligibility of halibut and sablefish IFQ holders

Section 2.4 of the Council motion provides:

- 2.4 Allocation of Bycatch Species
Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish
Includes SEO shortraker, rougheye, and thornyhead rockfish.
- i. Allocation of shares
 - Option 1. Allocate shares to all fishermen (including sablefish & halibut QS fishermen) based on fleet bycatch rates by gear:
 - Suboption 1. based on average catch history by area and target fishery
 - Suboption 2. based on 75th percentile by area by target fishery
 - Option 2. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each bycatch species.
 - Suboption 1. Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.
 - Suboption 2. Pro-rata bycatch reduction allowances in open access fisheries reduced from historical bycatch rates at :
 - i. 5%
 - ii. 10%
 - iii. 15%
 - Option 3. Bycatch allocations will be awarded to the owners of sablefish and halibut QS, rather than the LLP holders.

Option 1 provides that fishermen, including halibut and sablefish QS fishermen would be allocated shares. Option 3 provides for the allocation of bycatch to “owners of sablefish and halibut QS, rather than LLP holders.” The need for and intention of option 3 is unclear given that halibut and sablefish IFQ holders are included in the allocation under option 1. The exclusion of LLP holders from the allocation is very confusing. The purpose of option 3 should be clarified, unless it is redundant, in which case, it should be deleted.

Topic 26 Halibut PSC transfer reductions and cooperatives

Section 2.5.3 of the Council motion provides:

- 2.5.3 Annual transfer/Leasing of Trawl or Fixed Gear Halibut PSC mortality
Halibut PSC harvest shares are separable from target groundfish harvest shares and may be transferred independently within sectors. When transferred separately, the amount of Halibut PSC allocation would be reduced, for that year, by:
- Option 1. 0%
 - Option 2. 5%
 - Option 3. 7%
 - Option 4. 10%
 - Option 5. Exclude any halibut PSC transferred for participation in the incentive fisheries

The motion is not clear whether the reduction would apply to the transfer of halibut bycatch within a cooperative. If the Council intends to exempt any use of members’ halibut PSC by a cooperative from the reductions on transfer, the Council should explicitly provide for that exemption.

Topic 27: *Blocked shares*

Section 2.7 of the Council motion provides:

- 2.7 Preserving entry level opportunities for P. cod
- 2.7.1 P. cod harvest share for H&L and pot lowest producer would remain "tied" to a block of quota and could only be permanently sold or transferred as a block.
Option 1. 10,000 pounds constitutes one block
Option 2. 20,000 pounds constitutes one block
- 2.7.2 Eligible participants would be allowed to hold a maximum of:
Option 1. 1 block
Option 2. 2 blocks
Option 3. 4 blocks
Suboption. Lowest producer harvest shares earned as a bycatch in the halibut sablefish ITQ program would be exempt from the block program.

The provisions of the section raise several questions. Section 2.7.1 appears to be intended to create a block program similar to the halibut and sablefish IFQ block program. This being the case, the shares allocated would not remain tied to a block, but would be an inseparable block. The pound threshold for creating a block could be interpreted in a few different ways. The most straightforward interpretation, which is analogous to the interpretation in the halibut and sablefish IFQ program is that the allocation would not result in the allocation of more than the threshold number of pounds in the year the block program was adopted, which was the year prior to the commencement of the program. The Council could either specify a year or use the last qualifying year as the basis for determining whether a share allocation would exceed the block threshold.

In the halibut and sablefish program, the block threshold was applied on an person (meaning individual or company) and area basis. So, if the person receives an allocation in excess of the poundage threshold in an area, that particular allocation would not be blocked. If the allocation to the person is below the threshold in another area, that allocation would be blocked. This approach will simplify the application of the rule, but limits the analysis of the rule because of the lack of availability of ownership records.

The motion provides that the block program would apply to hook and line and pot "lowest producer". This provision is unclear since "lowest producer" is not defined. Since pound thresholds are provided, the words "lowest producer" could be omitted. If some other meaning is intended, the Council should clarify its intent.²⁵

Section 2.7.2 provides for limitations on the number of blocks a person may hold. No option is included that would limit the holding of shares by holders of unblocked shares. **If the Council intends to limit the block holdings of holders of unblocked shares, the Council should add a provision such as:**

"any person may hold:

- a) ___ block(s) and any amount of unblocked shares or**
- b) ___ blocks."**

Such a provision is similar to that of the block program in the halibut and sablefish IFQ program.

²⁵ In alternative 2, the Council could apply the "low producing" fixed gear catcher vessel definition to determine blocking of shares. Given the pound threshold, the "low producing" limitation is likely unnecessary and could be inconsistent.

Section 2.7.2 also includes a provision that would exempt shares earned as bycatch in the halibut and sablefish IFQ fishery from the block program. Currently, no option for the allocation of target species (including cod) to IFQ holders is included in the Council motion. Unless the Council motion is revised to provide for the allocation of target species to IFQ holders, this provision can be deleted.

Topic 28: State fisheries and data analysis

The Council motion contains the following provision concerning State fisheries:

2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

Option 1. Status Quo -Federal TAC taken in federal waters and in state waters, during a 'parallel' fishery, plus state-water fisheries exist for up to 25% of the TAC for Pacific cod.

Option 2. Direct allocation of portion of TAC to fisheries inside 3 nm.

No 'parallel' fishery designation, harvest of remaining federal TAC only occurs in federal zone (3 - 200 nm); and

Council allocates _____ % of the TAC, by species by FMP Amendment, to 0-3 nm state water fisheries representing a range of harvests that occurred in state waters. This could include harvest from the status quo parallel fishery and the state waters P. cod fisheries. State waters fisheries would be managed by ADF&G through authority of, and restrictions imposed by, the Board of Fisheries.

Area or species restrictions:

Suboption 1. Limited to Pollock, P. cod, flatfish, and/or pelagic shelf rockfish (light and dark dusky rockfishes).

Suboption 2. Limited to Western, Central GOA management areas and/or West Yakutat.

Option 3. Parallel fishery on a fixed percentage (____ %) allocation of the federal TAC, to be prosecuted within state waters with additional State restrictions (e.g., vessel size, gear restrictions, etc to be imposed by the BOF).

Fixed allocation for:

Suboption 1. P. cod

Suboption 2. Pollock

Suboption 3. All other GOA groundfish species

Option 1 would retain the status quo. This option could only be implemented if the Council chooses to retain the status quo in the federally managed fisheries. Otherwise, the harvest allocations under a rationalized fishery could not be protected, if State water participants could harvest unlimited quantities of fish against the federal TAC.

Option 2 would allocate the historic State water harvest (including both parallel fishery harvest and State water cod harvest) to the State to support a State water fishery, which would be managed by the State. Harvest of the remaining federal TAC would be in federal waters only and would be subject to the rules of the rationalization program. This option raises the questions concerning the extent to which harvests by LLP holders and State water parallel fishery participants would be credited under the rationalization program.²⁶

²⁶ Under section 2.2.2, Option 2, non-federally permitted participants in the State water parallel fisheries would receive harvest allocations in the rationalization program for their State water parallel fisheries harvests.

Specifically, if harvests from State waters (0-3 nm) during the parallel fishery are allocated to a State water fishery, should the Council also allocate those harvests to an individual LLP holder or non-LLP parallel fishery participant under the rationalization program. The Council could choose one of two approaches for each of these groups of participants:

Under the rationalization program, LLP holders could be credited with:

- 1) all landings of harvests from all waters (federal fishery and State water parallel fishery (0-200 nm)) during the federal season, or
- 2) only landings of harvests from federal waters (3-200 nm) during the federal season.

Under the rationalization program, non-federally permitted participants in the State water parallel fishery could be credited with:

- 1) all landings from the State water parallel fishery (0-3 nm) during the federal season, or
- 2) no landings from the State water parallel fishery (0-3 nm) during the federal season.

In making this decision, the Council should bear in mind that if (1) is selected for either group of participants, State water harvests (0-3 nm) would be credited twice in determining allocations; once in making the allocation to the new State water fishery and a second time in making the allocation to the individual LLP holder or historic State water participant for use in the rationalized federal fishery. Depending on the rules governing entry to the State water fishery, favoring one allocation rule over the other could be perceived as more equitable. If a rule limits participation of a harvester in the new State water fishery, including state water harvests of that harvester in the federal fishery allocation would appear to be more justified. In addition, the Council should also consider its objectives in rationalizing the fisheries and which of the different allocation rules best serves those objectives.

The same allocation issues that arises under option 2 could also arise under option 3. Under option 3, a specified percentage of the federal TAC would be allocated to a State managed fishery, which would be prosecuted in State waters.²⁷ Under this provision, both the magnitude and basis for determining the magnitude of the allocation to the State fishery are unstated. The Council could consider several factors in determining the extent of that allocation, including historical harvest patterns, allocations under the federal rationalization program and the rules governing entry to the State water fishery. In any case, the allocation is likely to depend on the Council's balancing its manifold objectives in rationalizing the Gulf fisheries.

The uncertainty concerning the scope of allocations to the federal rationalized fishery and the new State water fishery and inclusion of participants in share allocations or exclusions of historical participants under limitations on entry in State fisheries complicate the analysis of the options. The data analysis is especially complicated since these provisions interact with each other. To estimate individual allocations the analyst must know the participants that will receive an allocation in the federal fishery and the harvests that will be credited in the allocation for the participant. Based on this information alone, the analyst can describe the allocation, but only as a share of the federal fishery. The analyst cannot describe the allocation as a share of the total TAC until the division of that TAC between the federal and State fisheries is decided. In addition, the analyst cannot provide any information concerning whether any participant or group of participants would receive an allocation under the federal fishery (or have a harvest opportunity under the State fishery) that is comparable to the historic harvests of that participant or group of participants. The fairness of an initial allocation is often argued to hinge on whether participants are able to maintain harvests under the new program that are comparable to historic harvest levels. Without more complete information concerning the

²⁷ Option 3 is silent on whether participants in the federal fishery would be permitted to harvest any fish from State waters.

allocation to State water fisheries and participation in those State water fisheries, analysts cannot determine whether any participant's access to harvests will be similar to historic levels.

Topic 29 "Target" and "Bycatch" species

Throughout the motion, the Council has used the term "target" to identify species that will be allocated based on individual landings and "bycatch" to identify species that will be allocated based on a percentage of the average incidental catch. The use of the terms "target" and "bycatch" to identify these species has caused consistent confusion among analysts working on this project and is likely to cause confusion for managers and the public as the program is implemented.

Section 2.3 identifies target species as pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, and pelagic shelf rockfish. Managers typically refer to "targets" as a single species that a harvester is attempting to catch over some period of time (e.g., week) or activity (e.g., set, haul, or landing). Depending on the application, different measures for determining targeting may be applied by managers. In any case, many of the species listed as targets are often harvested incidentally by harvesters targeting another species. Use of the term target suggests to some that allocations will be based solely on harvests made while targeting the species. The Council, realizing that such an interpretation would be impossible to implement because of inadequate records, has chosen to make allocations of the species based on all landings of the "target" species, regardless of whether the species was actually targeted. To avoid the confusion over whether landings would be credited in allocations, staff suggests substituting the neutral term "primary" for "target" in the Council motion.

Section 2.4 identifies bycatch species as thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and sablefish. The use of the term "bycatch" to describe these species has also caused some confusion. Under the Magnuson Steven Act, "bycatch" is defined as "fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. . ." (see Sec. 3. 104-297). Since the species the motion refers to as "bycatch" species are frequently landed and processed, the use of the term "bycatch" is a misnomer under the MSA definition and is likely to lead to additional confusion. Staff recommends that the Council use the term "secondary" species to describe these species. Suggested changes are proposed in Section 2.1, 2.3, 2.4, 2.5, 2.6, and 4.6 of Appendices A2 and A3.

ATTACHMENT A1
TO ALTERNATIVE DESCRIPTIONS AND DISCUSSION PAPER
OCTOBER 2003

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
GULF OF ALASKA GROUND FISH RATIONALIZATION
ELEMENTS AND OPTIONS
June 16, 2003

1 Status Quo (No Action Alternative)

2 Harvest Sector Provisions

2.1 Management Areas:

Areas are Western Gulf, Central Gulf, and West Yakutat—separate areas

For Pollock: 610 (Western Gulf), 620 and 630 (Central Gulf), 640 (West Yakutat (WY))

- Shortraker and rougheye (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis
- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation
- SEO is exempt except for SR/RE and thornyhead rockfishes as bycatch species. Allocation will be based on target catch in sablefish, halibut, Demersal Shelf Rockfish and P. cod fishery

Gear: Applies to all gear except jig gear—

Option 1. The jig fishery would receive an allocation based on its historic landings in the qualifying years – the jig fishery would be conducted on an open access basis.

Option 2. Gear would be accounted for in a manner similar to sport halibut harvests in halibut IFQ fishery.

Suboption: Cap jig harvest at ____% of current harvest by species and area:

1. 125%
2. 150%
3. 200%

2.2 Qualifying periods and landing criteria (same for all gears in all areas)

(The analysis will assess AFA vessels as a group)

Option 1. 95-01 drop 1

Option 2. 95-02 drop 1

Option 3. 95-02 drop 2

Option 4. 98-02 drop 1

2.2.1 Qualifying landing criteria

Landings based on retained catch for all species (includes weekly processor report for Catcher/Processor sector)

NOTE: Total pounds landed will be used as the denominator.

Catch history determined based on the poundage of retained catch year (does not include meal)

Suboption: catch history for P. cod fisheries determined based on a percentage of retained catch per year (does not include meal)

2.2.2 Eligibility

LLP participation

Option 1. Eligibility to receive catch history is any person that holds a valid, permanent, fully transferable LLP license.

Suboption 1. Any person who held a valid interim LLP license as of January 1, 2003.

Suboption 2. Allow the award of retained incidental groundfish catch history arising from the halibut and sablefish IFQ fishery.

Basis for the distribution to the LLP license holder is: the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per license. In cases where the fishing privileges (i.e., moratorium qualification or LLP license) of an LLP qualifying vessel have been transferred, the distribution of harvest shares to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. (Only one catch history per LLP license.)

Option 2. Non-LLP (State water parallel fishery) participation

Suboption 1. Any individual who has imprinted a fish ticket making non-federally permitted legal landings during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

Suboption 2. Vessel owner at time of non-federally permitted legal landing during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

The Council requests NMFS RAM review LLP transfers and report on the frequency with which the transfers also include provisions governing catch history.

2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

Option 1. Status Quo –Federal TAC taken in federal waters and in state waters, during a ‘parallel’ fishery, plus state-water fisheries exist for up to 25% of the TAC for Pacific cod.

Option 2. Direct allocation of portion of TAC to fisheries inside 3 nm.

No ‘parallel’ fishery designation, harvest of remaining federal TAC only occurs in federal zone (3 – 200 nm); and

Council allocates _____ % of the TAC, by species by FMP Amendment, to 0-3 nm state water fisheries representing a range of harvests that occurred in state waters. This could include harvest from the status quo parallel fishery and the state waters P. cod fisheries. State waters fisheries would be managed by ADF&G through authority of, and restrictions imposed by, the Board of Fisheries.

Area or species restrictions:

Suboption 1. Limited to Pollock, P. cod, flatfish, and/or pelagic shelf rockfish (light and dark dusky rockfishes).

Suboption 2. Limited to Western, Central GOA management areas and/or West Yakutat.

Option 3. Parallel fishery on a fixed percentage (____ %) allocation of the federal TAC, to be prosecuted within state waters with additional State restrictions (e.g., vessel size, gear restrictions, etc to be imposed by the BOF).

- Fixed allocation for:
- Suboption 1. P. cod
- Suboption 2. Pollock
- Suboption 3. All other GOA groundfish species

Council requests that staff provide an analysis of catch data showing harvest inside 3 nm by gear, species, vessel size and area. The Council recommends that this issue be reviewed by the Joint Protocol Committee at its next meeting (tentatively identified as July 28/29 in Anchorage).

2.3 Target Species Rationalization Plan

Target Species by Gear

2.3.1 Initial Allocation of catch history

- Option 1. Allocate catch history by sector and gear type
- Option 2. Allocate catch history on an individual basis
 - a. Trawl CV and CP:
 - Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish
 - b. Longline CV and CP:
 - Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder
 - c. Pot CV and CP:
 - Pacific Cod

2.3.2 Harvest share (or QS/IFQ) Designations

2.3.2.1 Vessel Designation of low producers and high producers in the fixed gear class.

Low producing vessels are:

- Option 1. less than average harvest shares initially allocated by gear, species and area
 - Option 2. less than the 75th percentile harvest shares initially allocated by gear, species and area
- High producing vessels are the remainder.

2.3.2.2 Harvest share sector designations:

- Option 1. No designation of harvest shares (or QS/IFQ) as CV or CP
- Option 2. Designate harvest shares (or QS/IFQ) as CV or CP. Annual CV harvest share allocation (or IFQ) conveys a privilege to harvest a specified amount. Annual CP harvest share allocation (or IFQ) conveys the privilege to harvest and process a specified amount. Designation will be based on:
 - Actual amount of catch harvested and processed onboard a vessel by species.

2.3.2.3 Harvest share gear designations

- Option 1. No gear designation
- Option 2. Designate harvest shares as Longline, Pot, or Trawl
- Option 3. Longline and pot gear harvest shares (or IFQ) may not be harvested using trawl gear.
- Option 4. Pot gear harvest shares (or IFQ) may not be harvested using longline gear

2.3.2.4 If a closed class of processor alternative is chosen, CV harvest shares will be issued in two classes. Class A shares will be deliverable to a qualified processor or processor shareholder (as applicable). Class B shares will be deliverable to any processor as authorized under this program.

- Option. Only the annual allocations will be subject to the Class A/Class B distinction. All long term shares or history will be of a single class.

2.3.3 Transferability and Restrictions on Ownership of Harvest shares (or QS/IFQ)

2.3.3.1 Persons eligible to receive harvest shares by transfer must be (not mutually exclusive):

- Option 1. US citizens who have had at least 150 days of sea time
- Option 2. Entities that have a U. S. citizen with 20% or more ownership and at least 150 days of sea time
- Option 3. Entities that have a US citizenship with 20% or more ownership
- Option 4. Initial recipients of CV or C/P harvest share
- Option 5. US Citizens eligible to document a vessel.
- Option 6. Communities would be eligible to receive harvest shares by transfer (this provision would be applicable if certain provisions of 2.9 are adopted.)

2.3.3.2 Restrictions on transferability of CP harvest shares

- Option 1. CP harvest shares maintain their designation upon transfer.
- Option 2. CP harvest shares maintain their designation when transferred to persons who continue to catch and process CP harvest shares at sea, if CP harvest shares are processed onshore after transfer, CP harvest shares converts to CV harvest shares.
- Option 3. CP harvest shares maintain their designation after transfer for 5 years following implementation, after which time any transfer of CP shares convert to CV shares.

2.3.3.3 Redesignate CP shares as CV shares upon transfer to a person who is not an initial issuee of CP shares:

- Option 1. all CP shares
- Option 2. trawl CP shares
- Option 3. longline CP shares

2.3.3.4 Vertical integration

Harvest shares initial recipients with more than 10% limited threshold ownership by any processor are capped at:

- Option 1. initial allocation of harvest CV and CP shares.
- Option 2. 115-150% of initial allocation of harvest CV shares.
- Option 3. 115-150% of initial allocation of harvest CP shares.

2.3.3.5 Definition of sea time

Sea time in any of the U.S. commercial fisheries in a harvesting capacity.

2.3.3.6 Leasing of QS ("leasing of QS" is defined as the transfer of annual IFQ permit to a person who is not the holder of the underlying QS for use on any vessel and use of IFQ by an individual designated by the QS holder on a vessel which the QS holder owns less than 20% -- same as "hired skipper" requirement in halibut/sablefish program).

- Option 1. No leasing of CV QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
- Option 2. No leasing of CP QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
- Option 3. Allow leasing of CV QS, but only to individuals eligible to receive QS/IFQ by transfer.
- Option 4. Allow leasing of CP QS, but only to individuals eligible to receive QS/IFQ by transfer.
- Option 5. Sunset [CP – CV] QS leasing provisions [3 – 5 – 10] years after program implementation.

2.3.3.7 Separate and distinct harvest share use caps

Vessel use caps on harvest shares harvested on any given vessel shall be set at two times the individual use cap for each species. Initial issuees that exceed the use cap are grandfathered at their current level as of a control date of April 3, 2003; including transfers by contract entered into as of that date. Caps apply to all harvesting categories by species with the following provisions:

1. Apply individually and collectively to all harvest share holders in each sector and fishery.
2. Percentage-caps by species are as follows (a different percentage cap may be chosen for each fishery):
 - i. Trawl CV and/or CP (can be different caps):
 Use cap based at the following percentile of catch history for the following species:
 (i.e., 75th percentile represents the amount of harvest shares that is greater than the amount of harvest shares for which 75% of the fleet will qualify.)
 pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, pelagic shelf rockfish
 Suboption 1. 75 %
 Suboption 2. 85%
 Suboption 3. 95 %
 - ii. Longline and Pot CV and/or CP (can be different caps)
 based on the following percentiles of catch history for the following species:
 Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if Greenland turbot is targeted), northern rockfish
 Suboption 1. 75 %
 Suboption 2. 85%
 Suboption 3. 95 %
3. Conversion of CP shares:
 - i. CP shares converted to CV shares
 Option 1. will count toward CV caps
 Option 2. will not count toward CV caps at the time of conversion.
 - ii. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP shares to CV shares alone will not require a CP shareholder to divest CP shares for exceeding the CP share cap.

2.3.3.8 Owner On Board Provisions

Provisions may vary depending on the sector or fishery under consideration (this provision may be applied differently pending data analysis)

- i. All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued harvest share units.
 - Suboption 1. No owner on board restrictions.
 - Suboption 2. A portion (range of 5-100%) of the quota shares initially issued to fishers/ harvesters would be designated as "owner on board."
 - Suboption 3. All initial issuees (individual and corporate) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares for a period of 5 years after implementation.
 - Suboption 4. Shares transferred to initial issuees in the first 5 years of the program would be considered the same as shares initially issued (range of 5 –100% of the quota shares). See above NOTE
 - Suboption 5. "Owner on board" shares transferred by initial issuees, after the grace period, would require the recipient to be aboard the vessel to harvest the IFQ.
 - Suboption 6. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of (Range 1-3 years).
- ii. Vessel categories for owner on board requirements
 - Option 1. No Categories
 - Option 2. Vessel Categories as follows
 Vessels < 60'
 Vessels >= 60' and < 125'

Vessels >= 125'

2.3.3.9 Overage Provisions

i. Trawl CV and CP:

Suboption 1. Overages up to 15% or 20% of the last trip will be allowed— greater than a 15% or 20% overage result in forfeiture and civil penalties. An overage of 15% or 20% or less, results in the reduction of the subsequent year's annual allocation or IFQ. Underages up to 10% of last trip harvest shares (or IFQ) will be allowed with an increase in the subsequent year's annual allocation (or IFQ).

Suboption 2. Overage provisions would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be charged if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

ii. Longline and pot CV and CP:

Overages up to 10% of the last trip will be allowed with rollover provisions for underages— greater than a 10% overage results in forfeiture and civil penalties. An overage of less than 10% results in the reduction of the subsequent year's annual allocation or IFQ. This provision is similar to that currently in place for the Halibut and Sablefish IFQ Program (CFR 679.40(d)).

Suboption. Overages would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be allowed if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

2.3.3.10 Retention requirements for rockfish, sablefish and Atka mackerel:

Option 1. no retention requirements.

Option 2. require retention (all species) until the annual allocation (or IFQ) for that species is taken with discards allowed for overages

Option 3. require 100% retention (all species) until the annual allocation (or IFQ) for that species is taken and then stop fishing.

2.3.3.11 Limited processing for CVs

Option 1. No limited processing

Option 2. Limited processing of rockfish species by owners of CV harvest shares is allowed up to 1 mt of round weight equivalent of rockfish per day on a vessel less than or equal to 60ft LOA.

2.3.3.12 Processing Restrictions

Option 1. CPs may buy CV fish

Suboption. 3 year sunset

Option 2. CPs would be prohibited from buying CV fish

Option 3. CPs are not permitted to buy fully utilized species (cod, pollock, rockfish, sablefish, and allocated portion of flatfish) from CVs.

Suboption. Exempt bycatch amounts of these species delivered with flatfish.

2.4 Allocation of Bycatch Species

Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish
Includes SEO shortraker, rougheye, and thornyhead rockfish.

i. Allocation of shares

Option 1. Allocate shares to all fishermen (including sablefish & halibut QS fishermen) based on fleet bycatch rates by gear:

- Suboption 1. based on average catch history by area and target fishery
 - Suboption 2. based on 75th percentile by area by target fishery
- Option 2. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each bycatch species.
 - Suboption 1. Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.
 - Suboption 2. Pro-rata bycatch reduction allowances in open access fisheries reduced from historical bycatch rates at :
 - i. 5%
 - ii. 10%
 - iii. 15%
- Option 3. Bycatch allocations will be awarded to the owners of sablefish and halibut QS, rather than the LLP holders.
- ii. Include these species for one gear type only (e.g., trawl). Deduct the bycatch from gear types from TAC. If deduction is not adequate to cover bycatch in other gear types, on a seasonal basis, place that species on PSC status until overfishing is reached.
- iii. Retain these species on bycatch status for all gear types with current MRAs.
- iv. Allow trawl sablefish catch history to be issued as a new category of sablefish harvest shares ("T" shares) by area. "T" shares would be fully leasable, exempt from vessel size and block restrictions, and retain sector designation upon sale.
 - Suboption. These shares may be used with either fixed gear or trawl gear.
- v. Permit transfer of bycatch QS
 - Option 1. Groundfish harvest shares and bycatch shares are non-separable and must be transferred as a unit.
 - Option 2. Groundfish harvest shares and bycatch shares are separable and may be transferred separately

2.5 PSC Species

2.5.1 Accounting of Halibut Bycatch

Pot vessels continue their exemption from halibut PSC caps.

Hook and line and trawl entities

Option 1. Same as that under IFQ sablefish and halibut programs

Option 2. Cooperatives would be responsible for ensuring the collective halibut bycatch cap was not exceeded

Option 3. Individual share or catch history owners would be responsible to ensure that their halibut bycatch allotment was not exceeded

2.5.2 Halibut PSC Allocation

Each recipient of fishing history would receive an allocation of halibut mortality (harvest shares) based on their allocation of the directed fishery harvest shares. Bycatch only species would receive no halibut allocation.

Initial allocation based on average halibut bycatch by directed target species during the qualifying years. Allocations will be adjusted pro rata to equal the existing PSC cap.

By sector average bycatch rates by area by gear:

Option 1. Both sectors

Option 2. Catcher Processor/Catcher Vessel

2.5.3 Annual transfer/Leasing of Trawl or Fixed Gear Halibut PSC mortality

Halibut PSC harvest shares are separable from target groundfish harvest shares and may be transferred independently within sectors. When transferred separately, the amount of Halibut PSC allocation would be reduced, for that year, by:

Option 1. 0%

- Option 2. 5%
- Option 3. 7%
- Option 4. 10%
- Option 5. Exclude any halibut PSC transferred for participation in the incentive fisheries

2.5.4 Permanent transfer of Halibut PSC harvest share mortality

- Option 1. Groundfish harvest shares and Halibut PSC harvest shares are non-separable and must be transferred as a unit
Suboption. exempt Pacific cod
- Option 2. Groundfish harvest shares and Halibut PSC harvest shares are separable and may be transferred separately

2.5.5 Retention of halibut bycatch by longline vessels

Halibut bycatch may be retained outside the halibut season from Jan 30 to start of commercial fishery, and from end of commercial fishery through December 15.

- Option 1. retention is limited to (range 10-20%) of target species
- Option 2. permit holder must have sufficient harvest shares (or IFQ) to cover landing

2.6 Incentive species

Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish.

Owners of shares must utilize all their shares for an incentive species before participating in incentive fishery for that species.

Option. The portion of historic unharvested West Yakutat TAC will be made available as an incentive fishery, subject to provision of incentive fisheries

2.6.1 Eligibility to fish in the incentive fisheries

- A. The unallocated QS for the incentive fisheries are available for harvest, providing the vessel has adequate PSC and bycatch species and the vessel is a member of a GOA fishing cooperative.
- B. Any quota holder qualified to be in a coop.

2.6.2 Catch accounting for the incentive fisheries – Allocated QS and Incentive fishery quota

- Option 1. The individual coop member's apportionment of the allocated incentive species QS must be used prior to the individual gaining access to the incentive fishery unallocated portion. The coop will notify NMFS when a vessel enters the incentive fishery quota pool.
- Option 2. The coop's allocation of incentive species QS must be fished before gaining access to the unallocated portion of the incentive species quotas. The coop members through a contractual coop agreement will address catch accounting amongst the coop members.
- Option 3. For vessels not participating in a sector coop, the unallocated incentive species are available for harvest once the non-coop sector's allocation of the incentive species has been used or individual IFQ holder's allocation of the incentive species has been used.

2.7 Preserving entry level opportunities for P. cod

2.7.1 P. cod harvest share for H&L and pot lowest producer would remain "tied" to a block of quota and could only be permanently sold or transferred as a block.

- Option 1. 10,000 pounds constitutes one block
- Option 2. 20,000 pounds constitutes one block

2.7.2 Eligible participants would be allowed to hold a maximum of:

- Option 1, 1 block
- Option 2. 2 blocks
- Option 3. 4 blocks

Suboption. Lowest producer harvest shares earned as a bycatch in the halibut sablefish ITQ program would be exempt from the block program

2.8 Skipper/Crew

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

Option 1. No skipper and/or crew provisions

Option 2. Allocate to skippers and/or crew

Suboption 1. Initial allocation of 5% shall be reserved for captains and/or crew

Suboption 2. Initial allocation of 10% shall be reserved for captains and/or crew

Suboption 3. Initial allocation of 15% shall be reserved for captains and/or crew

Option 3. Establish license program for certified skippers. For initial allocation Certified Skippers are either:

i. Vessel owners receiving initial QS or harvest privileges; or

ii. Hired skippers who have demonstrated fishing experience in Federal or State groundfish fisheries in the BSAI or GOA for 3 out of the past 5 years as documented by a CFEC permit and signed fish tickets and/or appropriate NMFS documentation (starting date for five years is 2003).

Suboption 1. include crew in the license program.

Suboption 2. require that new Certified Skippers licenses accrue to individuals with demonstrated fishing experience (Groundfish – BSAI/GOA, state or federal waters) similar to halibut/sablefish program.

Under any alternative that establishes QS and annual harvest privileges, access to those annual harvest privileges is allowed only when fishing with a Certified Skipper onboard. Certified Skipper Licenses are non-transferable. They accrue to an individual and may not be sold, leased, bartered, traded, or otherwise used by any other individual.

Defer remaining issues to a trailing amendment and assumes simultaneous implementation with rationalization program.

2.9 Communities

Note: Bering Sea/Aleutian Islands communities (CDQ or otherwise) and communities adjacent to the Eastern GOA regulatory area Southeast Outside District (except Yakutat) will not be included in any Gulf rationalization community protection programs.

2.9.1 Regionalization

Regionalization options may be selected under any of the proposed alternatives for Gulf rationalization.

If adopted, all processing licenses (for shorebased and floating processors) will be categorized by region.

- Processing licenses that are regionally designated cannot be reassigned to another region.
- Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught.
- Catcher processor shares and incentive fisheries are not subject to regionalization.
- Qualifying years to determine the distribution of shares between regions will be consistent with the preferred alternative under “Section 2.2 Qualifying Periods”.

Central Gulf: Two regions are proposed to classify harvesting shares: North - South line at 58° 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area) extending west to east to the intersection with 140° W long, and then southerly along 140° W long.).

The following fisheries will be regionalized for shorebased (including floating) catch and subject to the North - South distribution: Pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock

2.9.2 Community Fisheries Quota (CFQ)

2.9.2.1 Administrative Entity

- Option 1. Gulf wide administrative entity
- Option 2. Regional administrative entities (Western Gulf, Central Gulf, Eastern Gulf)
- Option 3. Multi-community administrative entities
- Option 4. The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.9.2.2 Eligible Communities

- Option 1. Population (based on 2000 Census):
 - a. Less than 1,500
 - b. Less than 2,500
 - c. Less than 5,000
 - d. Less than 7,500
- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway network
 - b. Coastal communities adjacent to salt water
 - c. Communities within 10 nautical miles of the Gulf Coast
 - d. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.
- Option 3. Historic Participation in Groundfish Fisheries
 - a. Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
 - b. Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut
- Option 4. Government Structure
 - a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
 - b. All other eligible communities

2.9.2.3 Species

- Option 1. All rationalized groundfish species
- Option 2. Limited to species that can be caught without (hard on) bottom trawling

2.9.2.4 Allocation

- Option 1. 5% of annual TAC
- Option 2. 10% of annual TAC
- Option 3. 15% of annual TAC

2.9.2.5 Harvesting of Shares

- Option 1. Limited to residents of eligible communities that own their vessels
- Option 2. Limited to residents of eligible communities
- Option 3. No limitations on who harvests shares
- Option 4. No offshore leases to CPs.

2.9.2.6 Use of Revenue

- Option 1. Community development projects that tie directly to fisheries or fishery related projects and education.
- Option 2. Community development projects that tie directly to fisheries and fisheries related projects, education and government functions.
- Option 3. Education, social and capital projects within eligible communities as well as governmental functions.

2.9.2.7 Qualification of Administrative Entity

The administrative entity must submit a detailed statement of eligibility to NMFS and the State prior to being qualified. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation.

2.9.2.8 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

2.9.3 Community Purchase Program

2.9.3.1 Administrative Entity

Option. The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.9.3.2 Eligible communities

Option 1. Population (based on 2000 Census):

- a. Less than 1,500
- b. Less than 2,500
- c. Less than 5,000
- d. Less than 7,500

Option 2. Geography

- a. Coastal Communities without road connections to larger community highway network
- b. Coastal communities adjacent to salt water
- c. Communities within 10 nautical miles of the Gulf Coast
- d. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.

Option 3. Historic Participation in Groundfish Fisheries

- a. Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
- b. Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut

Option 4. Government Structure

- a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
- b. All other eligible communities

2.9.3.3 Qualification of Administrative Entity

The administrative entity must submit a detailed statement of eligibility to NMFS and the State prior to being qualified. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation.

2.9.3.4 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

2.9.4 Community Incentive Fisheries Trust (CIFT)

The CIFT has full ownership of CIFT harvest shares and holds these shares in trust for the communities, processors and crewmembers in the region to use as leverage to mitigate impact directly associated with implementation of a rationalization program.

2.9.4.1 Harvest Share Distribution

10-30 % of harvest shares shall be originally reserved for GOA CIFT associations. These harvest shares will be a pool off the top before individual distribution of harvest shares.

2.9.4.2 CIFT Designation

Option 1. One CV CIFT for entire GOA (exclude SEO)

Option 2. Regional CV CIFTs:

Suboption 1. Central GOA (Kodiak, Chignik)

Suboption 2. Western GOA

Suboption 3. North Gulf Coast (Homer to Yakutat)

Option 3. CP-based CIFT

Defer remaining issues to a trailing amendment

2.10 PSC for Crab and Salmon

The Council requests that staff prepare a discussion paper showing historical data for the bycatch of salmon and crab by species, area, and year for areas subject to the GOA rationalization program. The Council intends to review these data and develop bycatch measures for salmon and crab which will be implemented as part of this rationalization program. The Council intends to develop options for analysis that could be incorporated no later than the October 2003 meeting.

2.11 Review and Evaluation

2.11.1 Data collection.

A mandatory data collection program would be developed and implemented. The program would collect cost, revenue, ownership and employment data on a periodic basis to provide the information necessary to study the impacts of the program. Details of this program will be developed in the analysis of the alternatives.

2.11.2 Review and Sunset

Option 1. The program would sunset unless the Council decides to continue or amend the program. The decision of whether to continue or amend would be based on a written review and evaluation of the program's performance compared to its objectives.

Suboption 1. 5 years after fishing under the program

Suboption 2. 7 years after fishing under the program

Suboption 3. 10 year schedule after fishing under the program

Suboption 4. No sunset provision.

Option 2. Formal program review at the first Council Meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities, by addressing concerns, goals and objectives identified in the problem statement and the Magnuson

Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

2.12 Sideboards

GOA Groundfish sideboards under the crab rationalization plan and under the AFA would be superceded by the GOA rationalization program allocations upon implementation.

Participants in the GOA rationalized fisheries are limited to their historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

Vessels (Steel) and LLPs used to generate harvest shares used in a co-op may not participate in other federally managed open access fisheries in excess of sideboard allotments.

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

The Council noted its intent to further develop sideboard measures for analysis.

3 Processing Sector Provisions

3.1 Provisions for a Closed Class of Processors

3.1.1 Harvester Delivery requirements

3.1.1.1 Closed class delivery requirements

3.1.1.1 Option 1. 50-100% of CV harvest share allocation will be reserved for delivery to:

- i. the linked qualified closed trawl or fixed class processor.
- ii. any qualified closed trawl or fixed or large or small class processor

The remaining (50 -0%) CV harvest share allocation can be delivered to:

- i. any processor excluding CPs
- ii. any processor including CPs

Option 2. Low producing vessels are exempt from closed class delivery requirements

3.1.1.2 Linkage:

- Option 1. A harvester's processor linked shares are associated with the qualified fixed or trawl closed class large or small processor to which the harvester delivered the most pounds of groundfish during
- Option 2. the last ____ years of the harvester allocation base period.
- 1
 - 2
 - 3

If the processor with whom the harvester is associated with is no longer operating, the harvester is eligible to deliver to any qualified processor.

The Council requests that staff provide a discussion paper addressing the effect of a use cap on the number of processors in a region.

3.1.1.3 Penalties for moving between linked processors

- Option 1. No share reduction for moving between processor year to year
- Option 2. Share reductions of 10-20% each time a harvester moves to a different linked processor for:
- 1 year
 - 2 years
 - 4 years
- The share reduction shall be redistributed to:
- The shareholders in association with that processor that the shareholder left (if it continues to exist).
 - To all cooperatives in the sector on a pro rata basis. (applies if mandatory cooperatives)
- Option 3. Penalty to move depends on the amount of open access B share fish. Vessel leaves A share for one year.
- Suboption: Penalty applies to both A and B shares.

Closed A share class	Open B share class	Penalty on total amount of A and B shares	Ratio of penalty on A shares to B shares
90%	10%	10%	9:1 (9%)
80%	20%	20%	4:1 16%)
70%	30%	30%	7:3 (21%)
60%	40%	40%	3:2 (24%)
50%	50%	50%	1:1 (25%)

- Option 4. One year penalty in open access.
- Option 5. No penalty. Movement allowed only upon agreement between Coop members and affiliated processor.

3.1.1.4 Low producing vessel provisions

- Low producing vessels are defined as:

Option 1. H&L or pot CVs receiving less than average QS initially allocated by gear, species and area

Option 2. H&L or pot CVs receiving less than the 75th percentile QS initially allocated by gear, species and area
- Provisions for low producing vessels

Option 1. Low producing vessels are exempt from closed class delivery provisions

Option 2. Subject to block program.

3.1.2. Closed Class Processor Qualifications

3.1.2.1 To purchase groundfish required to be delivered to a qualified processor must have purchased and processed a minimum amount of groundfish as described below in at least 4 of the following years:

Option 1. 1995-99.

Option 2. 1995-01

Option 3. 1995-02

Option 1. a. Trawl eligible Processors

Suboption 1. 2000 mt

Suboption 2. 1000 mt

Suboption 3. 500 mt

b. Fixed gear eligible Processors

Suboption 1. 500 mt

Suboption 2. 200 mt

Suboption 3. 50 mt

c. Trawl and Fixed gear eligible processors

Meet criteria for both the closed class trawl process catch and closed class fixed gear process catch as described above

Option 2. a. Large closed class processor

Suboption 1. 2000 MT

Suboption 2. 1000 MT

Suboption 3. 500 MT

b. Small closed class processor

Suboption 1. 500 MT

Suboption 2. 200 MT

Suboption 3. 50 MT

c. Open class processor – no groundfish landing qualifications – can purchase any amount of open class B share QS.

3.1.2.2 Processor history would be credited to (and licenses would be issued to):

Option 1. Operator – must hold a federal or state processor permit.

Option 2. Facility owner

Suboption. Custom processing history would be credited to:

i. the processor that physically processes the fish

ii. the processor that purchases the fish and pays for processing

3.1.2.3 Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Option 1. Within the same community

Option 2. Within the same region

3.1.2.4 Processing Use caps by closed class processor type (trawl, fixed or trawl and fixed (low or large), by CGOA and WGOA regulatory areas:

Option 1. Range 70% to 130% of TAC processed for all groundfish species for the largest closed class processor

Option 2. Processing use caps for small closed class processors

i. 1000 to 2000 MT

ii. 2000 to 3000 MT

(Note: There is no limit on the amount of fish either a small or large closed class processor can buy from the open B share classed fish)

3.1.2.5 Processing Caps may apply at:

- Option 1. the facility level
- Option 2. the entity level

3.1.2.6 Closed class license ownership restrictions on processors

- Option 1. No restrictions
- Option 2. Trawl/fixed license holders cannot hold any additional fixed gear only licenses.
- Option 3. Large closed class processors cannot hold small closed class processors licenses.

4 Cooperative Provisions

4.1 Cooperative type (voluntary or mandatory)

- Option 1. Cooperative membership will be voluntary (i.e., harvest shares (IFQ) will be allocated to non-members)
- Option 2. Cooperative membership will be mandatory (i.e., harvest shares will be allocated only to cooperatives)

4.2 Cooperative formation

4.2.1 Co-ops can be formed between holders of harvest shares or history of:

- i. any type
- ii. the same area, gear, vessel type (CV or C/P), and/or vessel length class.
- iii. the following classes of shares/history
 - CV trawl
 - CV longline
 - CV pot
 - C/P trawl
 - C/P longline
 - C/P pot
- iv. All CV in the same area (WGOA and CGOA & WY combined)
 - CV trawl
 - CV fixed gear
 - CV longline
 - CV pot

Each group of share/history holders of a defined class that may form cooperatives is defined as a “sector.”

4.2.1.1 Coop/processor affiliations

- Option 1. No association required between processors and coops
- Option 2. CV cooperatives must be associated with
 - a) a processing facility
 - b) a processing company

The associated processor must be:

- a) a licensed processor
- b) a qualified processor (if closed processor class is selected)
- c) a closed class processor to which the share holder’s shares are linked
- d) any processing share holder (if processor shares are selected) *(note: should be deleted)*

- Option 3. A harvester is eligible to join a cooperative associated with the qualified fixed or trawl closed class large or small processor to which the harvester delivered the most pounds of groundfish during the last [1, 2, or 3] years of the harvester allocation base period. If the processor with whom the harvester is eligible to form a coop is no longer operating, the harvester is eligible to join a coop with any qualified processor.

Suboption 1. Processors can associate with more than one co-op

- Suboption 2. Processors are limited to 1 co-op per plant for each sector.
 Suboption 3. Processor affiliated vessels may join coops. (*moved from header*)

Note: A processor association will not be required for a C/P cooperative.

4.2.2 Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. 50-100 percent of the harvest shares (or catch history) of its sector (may choose different percentages for different sectors)
- Option 3. 50-100% of shareholder entities belonging to its sector. Council may choose different percentages for different sector.
- Option 4. 50-75 percent of the harvest shares (or catch history) of the eligible harvest share (or catch history) for each coop associated with its processor

Note: Requirements may differ across sectors (or for CV and CP cooperatives)

4.2.3 Duration of cooperative agreements:

- Option 1. 1 year
- Option 2. 3 years
- Option 3. 5 years

4.2.4 Allocation Prerequisites

Allocations to CV co-ops will only be made under the following conditions:

Required Co-op agreement elements:

Harvesters and processors are both concerned that rationalization will diminish their current respective bargaining positions. Therefore, a pre-season co-op agreement between eligible, willing harvesters and an eligible, and willing processor is a pre-requisite. The co-op agreement must contain a fishing plan for the harvest of all co-op fish.

4.3 Rules Governing Cooperatives

4.3.1 Annual Allocations

- Option 1. Annual allocations of cooperative members would be issued to the cooperative.
- Option 2. Annual allocation of the sector would be issued to the sector cooperative (if “true” sector cooperative alternative is selected)

- Co-op members may internally allocate and manage the co-op’s allocation per the co-op membership agreement. Subject to any harvesting caps that may be adopted, member allocations may be transferred and consolidated within the co-op to the extent permitted under the membership agreement.
- Monitoring and enforcement requirements would be at the co-op level. Co-op members are jointly and severally responsible for co-op vessels harvesting in the aggregate no more than their co-op’s allocation of target species, non-target species and halibut mortality, as may be adjusted by interco-op transfers.
- Co-ops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Co-ops may penalize or expel members who fail to comply with their membership agreement. Processor affiliates cannot participate in price setting negotiations except as permitted by general antitrust law.
- Co-ops may engage in inter-cooperative transfers to the extent permitted by rules governing transfers of shares among sectors (e.g., gear groups, vessel types).

4.4 Ownership and Use Caps and Underages

- 4.4.1 Set co-op use caps at 25 to 100% of total TAC by species (must choose 100 percent for a “true” sector cooperative)
- 4.4.2 Coop use caps for harvest shares on any given vessel shall be:
 - Option 1. Set at the same level as the individual vessel level.
 - Option 2. 3 times individual vessel use cap.
 - Option 3. No use caps
- To effectively apply individual ownership caps, the number of shares or history that each cooperative member could hold and bring to cooperatives would be subject to the individual ownership caps (with initial allocations grandfathered). Transfers between cooperatives would be undertaken by the members individually, subject to individual ownership caps.
- Underage limits would be applied in the aggregate at the co-op level

4.5 Movement between cooperatives

- 4.5.1 Harvesters may move between cooperatives at:
 - Option 1. the end of each year.
 - Option 2. the expiration of the cooperative agreement.
 - Option 3. No movement in the first two years
- 4.5.2 License Transfers Among Processors (applies only if closed class of processors)
 - Option 1. any cooperative association with that license will transfer to the processor receiving the license. All harvest share/history holders will be subject to any share reduction on departing the cooperative, as would have been made in the absence of the transfer.
 - Option 2. any cooperatives associated with the license will be free to associate with any qualified processor. Harvest share/history holders in the cooperative will be free to move among cooperatives without share/history reduction.

4.6 Non-Members of Cooperatives (applies only if mandatory cooperatives)

- 4.6.1 Harvest share/history holders that do not choose to join a co-op
 - Option 1. May fish in open access, provided NMFS determines that the non-cooperative allocation is sufficient to conduct an open access fishery. The open access fishery will be comprised of all shares of harvesters that are not cooperative members of the same sector (i.e., area, vessel type (CV or C/P), and/or gear). NMFS will have the discretion to determine the distribution of bycatch among target species open access fisheries from shares of harvesters holding bycatch shares for multiple target fisheries.
 - Option 2. Are not allowed to participate in the rationalized fisheries until they join a co-op.

TRAILING AMENDMENTS

The Council intent is for these trailing amendments to be implemented simultaneously with the main rationalization program.

- 1.Fee and Loan Program
- 2.Skipper/Crew Share Program issues
- 3.Remaining issues of CIFT program

**ATTACHMENT A2
TO ALTERNATIVE DESCRIPTIONS AND DISCUSSION PAPER
OCTOBER 2003**

ALTERNATIVE 2

**NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
GULF OF ALASKA GROUND FISH RATIONALIZATION
ELEMENTS AND OPTIONS
June 16, 2003
(ANNOTATED BY STAFF)**

Annotations describing the application of elements and options to the alternatives are bolded and italicized.

Staff proposed revisions are shown in bold and strikeout

Shading denotes differences between alternatives

2 Status Quo (No Action Alternative)

2 Harvest Sector Provisions

2.1 Management Areas:

Areas are Western Gulf, Central Gulf, and West Yakutat—separate areas

For Pollock: 610 (Western Gulf), 620 and 630 (Central Gulf), 640 (West Yakutat (WY))

- Shortraker and rougheye (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis
- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation ***Topic 16***
- SEO is exempt except for SR/RE and thornyhead rockfishes as ~~bycatch~~ ***secondary*** species. Allocation will be based on ~~target catch in~~ ***landings of*** sablefish, halibut, Demersal Shelf Rockfish and P. cod fishery ***Topic 29***

Gear: Applies to all gear except jig gear—

Option 1. The jig fishery would receive an allocation based on its historic landings in the qualifying years – the jig fishery would be conducted on an open access basis.

Option 2. Gear would be accounted for in a manner similar to sport halibut harvests in halibut IFQ fishery.

Suboption: Cap jig harvest at ____% of current harvest by species and area:

1. 125%
2. 150%
3. 200%

(All of 2.1 applies to alternative 2)

2.2 Qualifying periods and landing criteria (same for all gears in all areas)

(The analysis will assess AFA vessels as a group)

Option 1. 95-01 drop 1

- Option 2. 95-02 drop 1
- Option 3. 95-02 drop 2
- Option 4. 98-02 drop 1

(All of 2.2 applies to alternative 2)

2.2.1 Qualifying landing criteria

Landings based on retained catch for all species (includes weekly processor report for Catcher/Processor sector)

NOTE: Total pounds landed will be used as the denominator.

Catch history determined based on the poundage of retained catch year (does not include meal)

Suboption: catch history for P. cod fisheries determined based on a percentage of retained catch per year (does not include meal)

(All of 2.2.1 applies to alternative 2)

2.2.3 Eligibility

LLP participation

Option 1. Eligibility to receive catch history is any person that holds a valid, permanent, fully transferable LLP license.

Suboption 1. Any person who held a valid interim LLP license as of January 1, 2003.

Suboption 2. Allow the award of retained incidental groundfish catch history arising from the halibut and sablefish IFQ fishery.

Basis for the distribution to the LLP license holder is: the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per license. In cases where the fishing privileges (i.e., moratorium qualification or LLP license) of an LLP qualifying vessel have been transferred, the distribution of harvest shares to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. (Only one catch history per LLP license.)

Option 2. Non-LLP (State water parallel fishery) participation

Suboption 1. Any individual who has imprinted a fish ticket making non-federally permitted legal landings during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

Suboption 2. Vessel owner at time of non-federally permitted legal landing during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

(All of 2.2.2 applies to alternative 2)

The Council requests NMFS RAM review LLP transfers and report on the frequency with which the transfers also include provisions governing catch history.

2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

~~Option 1. Status Quo Federal TAC taken in federal waters and in state waters, during a 'parallel' fishery, plus state water fisheries exist for up to 25% of the TAC for Pacific cod.~~

Retention of the status quo is not possible in a rationalized fishery.

Option 2. Direct allocation of portion of TAC to fisheries inside 3 nm.

No 'parallel' fishery designation, harvest of remaining federal TAC only occurs in federal zone (3 – 200 nm); and

Council allocates _____ % of the TAC, by species by FMP Amendment, to 0-3 nm state water fisheries representing a range of harvests that occurred in state waters. This could include harvest from the status quo parallel fishery and the state waters P. cod fisheries. State waters fisheries would be managed by ADF&G through authority of, and restrictions imposed by, the Board of Fisheries.

Area or species restrictions:

Suboption 1. Limited to Pollock, P. cod, flatfish, and/or pelagic shelf rockfish (light and dark dusky rockfishes).

Suboption 2. Limited to Western, Central GOA management areas and/or West Yakutat.

Option 3. Parallel fishery on a fixed percentage (____ %) allocation of the federal TAC, to be prosecuted within state waters with additional State restrictions (e.g., vessel size, gear restrictions, etc to be imposed by the BOF).

Fixed allocation for:

Suboption 1. P. cod

Suboption 2. Pollock

Suboption 3. All other GOA groundfish species

Options 2 and 3 apply to alternative 2

Council requests that staff provide an analysis of catch data showing harvest inside 3 nm by gear, species, vessel size and area The Council recommends that this issue be reviewed by the Joint Protocol Committee at its next meeting (tentatively identified as July 28/29 in Anchorage).

2.3 Target Primary Species Rationalization Plan

Target Primary Species by Gear

Topic 29

2.3.1 Initial Allocation of catch history

~~Option 1. Allocate catch history by sector and gear type~~

Option 2. Allocate catch history on an individual basis

a. Trawl CV and CP:

Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish

b. Longline CV and CP:

Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder

c. Pot CV and CP:

Pacific Cod

(Option 2 applies to alternative 2)

Topic 1

2.3.3 Harvest share (or QS/IFQ) Designations

2.3.3.1 Vessel Designation of low producers and high producers in the fixed gear class.

Low producing vessels are:

Option 1. less than average harvest shares initially allocated by gear, species and area

Option 2. less than the 75th percentile harvest shares initially allocated by gear, species and area

High producing vessels are the remainder.

(2.3.2.1 applies only to alternative 2)

2.3.2.2 Harvest share sector designations:

~~Option 1. No designation of harvest shares (or QS/IFQ) as CV or CP~~

~~Option 2.~~ Designate harvest shares (or QS/IFQ) as CV or CP. Annual CV harvest share allocation (or IFQ) conveys a privilege to harvest a specified amount. Annual CP harvest share allocation (or IFQ) conveys the privilege to harvest and process a specified amount. Designation will be based on:

Actual amount of catch harvested and processed onboard a vessel by species.

(Option 2 applies to alternative 2)

Topic 2

2.3.2.3 Harvest share gear designations

~~Option 1. No gear designation~~

Option 2. Designate harvest shares as Longline, Pot, or Trawl

Option 3. Longline and pot gear harvest shares (or IFQ) may not be harvested using trawl gear.

~~Option 4. Pot gear harvest shares (or IFQ) may not be harvested using longline gear~~

(This alternative is unclear concerning gear designations and use of shares of one gear type by another gear.)

The Council should consider adding an explicit provision that establishes a fixed gear share designation, if that is intended)

Topic 3

2.3.2.4 **Trawl and high producing fixed gear** CV harvest shares will be issued in two classes. Class

A shares will be deliverable to a qualified processor ~~or processor shareholder (as applicable).~~

Class B shares will be deliverable to any processor as authorized under this program.

Option. Only the annual allocations will be subject to the Class A/Class B distinction. All long term shares or history will be of a single class.

This provision would apply to only trawl catcher vessel and “high producing” fixed gear vessels

With the revision this applies to alternative 2

2.3.3 Transferability and Restrictions on Ownership of Harvest shares (or QS/IFQ)

2.3.3.1 Persons eligible to receive harvest shares by transfer must be (not mutually exclusive):

Option 1. US citizens who have had at least 150 days of sea time

Option 2. Entities that have a U. S. citizen with 20% or more ownership and at least 150 days of sea time

Option 3. Entities that have a US citizenship with 20% or more ownership

Option 4. Initial recipients of CV or C/P harvest share

Option 5. US Citizens eligible to document a vessel.

Option 6. Communities would be eligible to receive harvest shares by transfer (this provision would be applicable if certain provisions of 2.9 are adopted.)

Definition of sea time

Sea time in any of the U.S. commercial fisheries in a harvesting capacity. *(moved from 2.3.3.5)*

(All of 2.3.3.1 applies to alternative 2 – Council should consider reducing the options and possibly revising Option 5 to provide for “any person eligible to document a vessel”)

Topic 5

2.3.3.2 Restrictions on transferability of CP harvest shares

Option 1. CP harvest shares maintain their designation upon transfer.

- Option 2. CP harvest shares maintain their designation when transferred to persons who continue to catch and process CP harvest shares at sea, if CP harvest shares are processed onshore after transfer, CP harvest shares convert to CV harvest shares.
- Option 3. CP harvest shares maintain their designation after transfer for 5 years following implementation, after which time any transfer of CP shares convert to CV shares.

(All of 2.3.3.2 applies to alternative 2 – the Council should consider selecting a preferred option)

2.3.3.3 Redesignate CP shares as CV shares upon transfer to a person who is not an initial issuee of CP shares:

- Option 1. all CP shares
- Option 2. trawl CP shares
- Option 3. longline CP shares

(All of 2.3.3.3 applies to alternative 2 – the Council should consider selecting a preferred option)

If the Council selects an option that results in the redesignation of C/P shares as CV shares, the Council will need to provide for the designation of the resulting CV shares (i.e., any regionalization, processor linkages, etc.)

Topic 6

2.3.3.4 Vertical integration

Harvest shares initial recipients with more than 10% limited threshold ownership by any processor are capped at:

- Option 1. initial allocation of harvest CV and CP shares.
- Option 2. 115-150% of initial allocation of harvest CV shares.
- Option 3. 115-150% of initial allocation of harvest CP shares.

(All of 2.3.3.4 applies to alternative 2)

~~2.3.3.5 Definition of sea time~~

~~— Sea time in any of the U.S. commercial fisheries in a harvesting capacity.~~

(Moved to 2.3.3.2)

2.3.3.6 Leasing of QS (“leasing of QS” is defined as the transfer of annual IFQ permit to a person who is not the holder of the underlying QS for use on any vessel and use of IFQ by an individual designated by the QS holder on a vessel which the QS holder owns less than 20% -- same as “hired skipper” requirement in halibut/sablefish program).

Option 1. No leasing of CV QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).

Option 2. No leasing of CP QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).

~~Option 3. Allow leasing of CV QS, but only to individuals eligible to receive QS/IFQ by transfer.~~

~~Option 4. Allow leasing of CP QS, but only to individuals eligible to receive QS/IFQ by transfer.~~

Option 5. Sunset [CP – CV] QS leasing provisions [3 – 5 – 10] years after program implementation.

The provisions of 2.3.3.6 could apply to “low producing” fixed gear vessels and halibut and sablefish IFQ holders that receive allocations –the Council should clarify the application of these provisions and consider selecting preferred options

Topic 21

2.3.3.7 Separate and distinct harvest share use caps

Individual caps apply to all harvesting categories by species with the following provisions:

1. Apply individually and collectively to all harvest share holders in each sector and fishery.
2. Percentage-caps by species are as follows (a different percentage cap may be chosen for each fishery):

- i. Trawl CV and/or CP (can be different caps):
Use cap based at the following percentile of catch history for the following species:
(i.e., 75th percentile represents the amount of harvest shares that is greater than the amount of harvest shares for which 75% of the fleet will qualify.)
pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole,
Arrowtooth flounder, northern rockfish, Pacific ocean perch, pelagic shelf rockfish
Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %
- ii. Longline and Pot CV and/or CP and high producing and low producing fixed gear CV (can be different caps)
based on the following percentiles of catch history for the following species:
Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if Greenland turbot is targeted), northern rockfish
Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %
3. Conversion of CP shares:
 - i. CP shares converted to CV shares
Option 1. will count toward CV caps
Option 2. will not count toward CV caps at the time of conversion.
 - ii. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP shares to CV shares alone will not require a CP shareholder to divest CP shares for exceeding the CP share cap.

Vessel use caps on harvest shares harvested on any given vessel shall be set at two times the individual use cap for each species. Initial issues that exceed the individual or vessel use caps are grandfathered at their current level as of a control date of April 3, 2003; including transfers by contract entered into as of that date.

All of 2.3.3.7 would apply to alternative 2

If trading among gear types is permitted, the Council should consider whether a provision similar to 3 is required to apply caps.

Proposed changes are to clarify the provision

Topic 17

2.3.3.8 Owner On Board Provisions

Provisions may vary depending on the sector or fishery under consideration (this provision may be applied differently pending data analysis)

- i. ~~All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued harvest share units.~~
 - Suboption 1. No owner on board restrictions.
 - Suboption 2. A portion (range of 5-100%) of the quota shares initially issued to fishers/ harvesters would be designated as "owner on board."
 - Suboption 13. All initial issues (individual and corporate) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued harvest share units.

option: Limit exemption to a period of 5 years after implementation.

~~Suboption 4. Shares transferred to initial issues in the first 5 years of the program would be considered the same as shares initially issued (range of 5–100% of the quota shares). See above NOTE~~

~~Suboption 5. “Owner on board” shares transferred by initial issues, after the grace period, would require the recipient to be aboard the vessel to harvest the IFQ.~~

Suboption 26. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of (Range 1-3 years).

ii. Vessel categories for owner on board requirements

Option 1. No Categories

Option 2. Vessel Categories as follows

Vessels < 60'

Vessels >= 60' and < 125'

Vessels >= 125'

Staff suggested revision to i. above.

Note – This is the only provision that would create vessel length classes – the Council should clarify how these vessel classes intended to be applied – see discussion paper

(all of 2.3.3.8 could be applied to alternative 2)

Topic 20

2.3.3.9 Overage Provisions

i. Trawl CV and CP:

Suboption 1. Overages up to 15% or 20% of the last trip will be allowed— greater than a 15% or 20% overage result in forfeiture and civil penalties. An overage of 15% or 20% or less, results in the reduction of the subsequent year's annual allocation or IFQ. Underages up to 10% of last trip harvest shares (or IFQ) will be allowed with an increase in the subsequent year's annual allocation (or IFQ).

Suboption 2. Overage provisions would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be charged if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

ii. Longline and pot CV and CP:

Overages up to 10% of the last trip will be allowed with rollover provisions for underages— greater than a 10% overage results in forfeiture and civil penalties. An overage of less than 10% results in the reduction of the subsequent year's annual allocation or IFQ. This provision is similar to that currently in place for the Halibut and Sablefish IFQ Program (CFR 679.40(d)).

Suboption. Overages would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be allowed if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

(all of 2.3.3.9 could be applied to alternative 2)

2.3.3.10 Retention requirements for rockfish, sablefish and Atka mackerel:

Option 1. no retention requirements.

Option 2. require retention (all species) until the annual allocation (or IFQ) for that species is taken with discards allowed for overages

Option 3. require 100% retention (all species) until the annual allocation (or IFQ) for that species is taken and then stop fishing.

(all of 2.3.3.10 could be applied to alternative 2)

- 2.3.3.11 Limited processing for CVs
 Option 1. No limited processing
 Option 2. Limited processing of rockfish species by owners of CV harvest shares is allowed up to 1 mt of round weight equivalent of rockfish per day on a vessel less than or equal to 60ft LOA.

(all of 2.3.3.11 could be applied to alternative 2)

- 2.3.3.12 Processing Restrictions
 Option 1. CPs may buy CV fish
 Suboption. 3 year sunset
 Option 2. CPs would be prohibited from buying CV fish
 Option 3. CPs are not permitted to buy fully utilized species (cod, pollock, rockfish, sablefish, and allocated portion of flatfish) from CVs.
 Suboption. Exempt bycatch amounts of these species delivered with flatfish.

The Council should clarify how these provisions would apply to catcher/processors that are qualified closed class processors – whether the provisions apply to both A and B shares and whether the provisions apply to “low producing” fixed gear vessels

In addition, the Council should consider defining a “catcher/processor”.

(all of 2.3.3.12 could be applied to alternative 2)

Topic 22

- 2.4 Allocation of ~~Bycatch~~ **Secondary Species**
 Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish
 Includes SEO shortraker, rougheye, and thornyhead rockfish.

i. Allocation of shares

- Option 1. Allocate shares to all fishermen (including sablefish & halibut QS fishermen) based on fleet ~~bycatch~~ **secondary species catch** rates by gear:

Suboption 1. based on average catch history by area and target fishery

Suboption 2. based on 75th percentile by area by target fishery

- Option 2. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each ~~bycatch~~ **secondary species**.

Suboption 1. Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.

Suboption 2. Pro-rata ~~bycatch~~ reduction of **secondary species** allowances in open access fisheries reduced from ~~historical bycatch rates at allocation of participants by:~~

iii. 5%

iv. 10%

iii. 15%

- Option 3. ~~Bycatch allocations will be awarded to the owners of sablefish and halibut QS, rather than the LLP holders.~~

(the purpose of Option 3 should be clarified – Option 1 includes halibut and sablefish IFQ holders in the allocation – is Option 3 intended to provide IFQ holders with some additional allocation – if not it can be deleted

Topic 25

- ii. Include these species for one gear type only (e.g., trawl). Deduct the ~~bycatch~~ **secondary species catch** from gear types from TAC. If deduction is not adequate to cover ~~bycatch~~ **incidental catch** in other gear types, on a seasonal basis, place that species on PSC status until overfishing is reached.
- iii. Retain these species on bycatch status for all gear types with current MRAs.

- iv. Allow trawl sablefish catch history to be issued as a new category of sablefish harvest shares (“T” shares) by area. “T” shares would be fully leasable, exempt from vessel size and block restrictions, and retain sector designation upon sale.
Suboption. These shares may be used with either fixed gear or trawl gear.
- v. Permit transfer of ~~bycatch~~ **QS secondary species shares**
 - Option 1. Groundfish **primary** harvest shares and ~~bycatch~~ **secondary** shares are non-separable and must be transferred as a unit.
 - Option 2. Groundfish **primary** harvest shares and ~~bycatch~~ **secondary** shares are separable and may be transferred separately

(All options can be applied to alternative 2)

2.5 PSC Species

2.5.1 Accounting of Halibut Bycatch

Pot vessels continue their exemption from halibut PSC caps.

Hook and line and trawl entities

- ~~Option 1. Same as that under IFQ sablefish and halibut programs~~
- ~~Option 2. Cooperatives would be responsible for ensuring the collective halibut bycatch cap was not exceeded~~
- ~~Option 3. Individual share or catch history owners would be responsible to ensure that their halibut bycatch allotment was not exceeded~~

(These options are very unclear.

Option 1 appears to propose continuing the current management of PSC. If that is intended, it should be stated directly – “halibut shall continue to be managed under the current rules governing halibut PSC.”

Options 2 and 3 are redundant with provisions elsewhere in this document and should be deleted.

If what is intended by 2 and 3 is that shares be allocated for halibut PSC, that should be stated explicitly – “halibut PSC will be managed through harvest share allocations”.

To the extent that the options differ across gear types, the Council should consider separating the options by gear type. In addition, the Council could consider separating sablefish IFQ options, if any are intended.

Topic 18

2.5.2 Halibut PSC Allocation

Each recipient of fishing history would receive an allocation of halibut mortality (harvest shares) based on their allocation of the directed fishery harvest shares. ~~Bycatch-only~~ **Secondary** species would receive no halibut allocation.

Initial allocation based on average halibut bycatch by directed ~~target~~ **primary** species during the qualifying years. Allocations will be adjusted pro rata to equal the existing PSC cap.

By sector average bycatch rates by area by gear:

- Option 1. Both sectors
- Option 2. Catcher Processor/Catcher Vessel

(2.5.2 applies to alternative 2 if halibut PSC is to be managed by share allocations)

2.5.3 Annual transfer/Leasing of Trawl or Fixed Gear Halibut PSC mortality

Halibut PSC harvest shares are separable from ~~target~~ **secondary** groundfish harvest shares and may be transferred independently within sectors. When transferred separately, the amount of Halibut PSC allocation would be reduced, for that year, by:

- Option 1. 0%
- Option 2. 5%
- Option 3. 7%
- Option 4. 10%
- Option 5. Exclude any halibut PSC transferred for participation in the incentive fisheries

(2.5.3 applies to alternative 2 if halibut PSC is to be managed by share allocations)

The Council should clarify whether primary/PSC allocations can be separated within a cooperative and whether the separation of shares is penalized – typically cooperative use is aggregated across all vessels that harvest shares on behalf of the cooperative (suggesting no penalty would apply)
The Council should also clarify whether Option 5 is intended to apply to transfers of PSC shares inside or outside of a cooperative)

Topic 26

2.5.4 Permanent transfer of Halibut PSC harvest share mortality

- Option 1. Groundfish harvest shares and Halibut PSC harvest shares are non-separable and must be transferred as a unit
Suboption. exempt Pacific cod
- Option 2. Groundfish harvest shares and Halibut PSC harvest shares are separable and may be transferred separately

(2.5.4 applies to alternative 2 if halibut PSC is to be managed by share allocations

The suboption exempting cod is assumed to exempt only transfers of PSC between cod share holders)

2.5.5 Retention of halibut bycatch by longline vessels

Halibut bycatch may be retained outside the halibut season from Jan 30 to start of commercial fishery, and from end of commercial fishery through December 15.

Option 1. retention is limited to (range 10-20%) of target primary species **clarify whether target or primary is intended here**

Option 2. ~~permit holder must have sufficient harvest shares (or IFQ) to cover landing~~
(Option 2 should be clarified – Does the Council intend: “Any person retaining halibut must have adequate halibut IFQ. Halibut may not be retained with halibut PSC shares.” This likely should not be an option but a requirement.)

(2.5.5 could be applied to alternative 2)

Topic 18

2.6 Incentive species

Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish.

Owners of shares must utilize all their shares for an incentive species before participating in incentive fishery for that species.

Option. The portion of historic unharvested West Yakutat TAC will be made available as an incentive fishery, subject to provision of incentive fisheries

2.6.1 Eligibility to fish in the incentive fisheries

Option A. The unallocated ~~QS portion of the TAC of for the incentive fisheries species~~ are available for harvest, providing the ~~vessel share holder~~ has adequate PSC and ~~bycatch~~ secondary species and the ~~vessel share holder~~ is a member of a GOA **fishing cooperative or holds low producing fixed gear catcher vessel shares.**

Option B. Open access participants will be permitted to harvest incentive species as long as the open access fishery remains open and NMFS determines that the secondary and PSC allocations remaining in the open access fishery are adequate to support prosecution of incentive species.

~~B. Any quota holder qualified to be in a coop.~~

C.

Option C. Any holder of halibut or sablefish IFQ that has adequate PSC and secondary species.

(2.6.1 is applicable to alternative 2

The application of A and B is unclear – are they options? – B is unclear and might be better revised, if it is necessary at all. Provision A could be revised to accommodate “low producing” fixed gear catcher vessel share holders under this alternative.)

In addition, the Council should consider whether

- 1) open access participants or*
- 2) halibut and sablefish IFQ holders*

should be permitted to participate in incentive fisheries.

Topic 23

2.6.2 Catch accounting for the incentive fisheries – Allocated QS and Incentive fishery quota

- Option 1. The individual coop member’s apportionment of the allocated incentive species QS must be used prior to the individual gaining access to the incentive fishery unallocated portion. The coop will notify NMFS when a vessel enters the incentive fishery quota pool.
- Option 2. The coop’s allocation of incentive species QS must be fished before gaining access to the unallocated portion of the incentive species quotas. The coop members through a contractual coop agreement will address catch accounting amongst the coop members.
- Option 3. **For low producing fixed gear catcher vessel share holders and halibut and sablefish IFQ holders** not participating in a sector co-op, the unallocated incentive species are available for harvest once the non-coop sector’s allocation of the incentive species has been used or individual IFQ holder’s allocation of the incentive species has been used.
- Option 4. **For open access participants, the harvest of incentive species quota allocated to open access participants must be fished prior to gaining access to the unallocated portion of the incentive species quota.**

(2.6.2 applies to alternative 2

Option 3 appears directed in part at low producing fixed gear participants – the suggested revision addresses those participants

Option 3 could also accommodate halibut and sablefish IFQ participants that receive bycatch share allocations

No option provides for access to open access participants – the added option 4 could be used to accommodate open access participants)

Topic 24

2.7 Preserving entry level opportunities for P. cod

2.7.3 Each initial allocation of P. cod harvest shares for H&L and pot lowest producer to fixed gear catcher vessels below the block threshold size would remain “tied” to be a block of quota and could only be permanently sold or transferred as a block.

Option 1. **allocations of 10,000 pounds or less** constitute one block

Option 2. **allocations of 20,000 pounds or less** constitute one block

(proposed revisions are intended to clarify the intention of the provision

Staff assumes that an “initial allocation” is the allocation to a single person (individual or legal entity).

2.7.1 can apply to alternative 2

The Council should also clarify whether this applies only to “low producing” fixed gear catcher vessel allocations or whether a separate option is intended that would block all “low producing” fixed gear catcher vessel allocations – see 3.1.1.4)

Topic 27

2.7.4 Eligible participants would be allowed to hold a maximum of:

- Option 1, 1 block
- Option 2. 2 blocks
- Option 3. 4 blocks

~~Suboption. Lowest producer harvest shares earned as a bycatch in the halibut sablefish ITQ IFQ program would be exempt from the block program.~~

2.7.2 can apply to alternative 2

(Council should clarify whether holders of unblocked shares may also hold blocks

No option exists for the allocation of cod to halibut and sablefish IFQ participants – unless an option for allocations is made, the suboption should be deleted)

Topic 27

2.8 Skipper/Crew

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

Option 1. No skipper and/or crew provisions

Option 2. Allocate to skippers and/or crew

Suboption 1. Initial allocation of 5% shall be reserved for captains and/or crew

Suboption 2. Initial allocation of 10% shall be reserved for captains and/or crew

Suboption 3. Initial allocation of 15% shall be reserved for captains and/or crew

Option 3. Establish license program for certified skippers. For initial allocation Certified Skippers are either:

iii. Vessel owners receiving initial QS or harvest privileges; or

iv. Hired skippers who have demonstrated fishing experience in Federal or State groundfish fisheries in the BSAI or GOA for 3 out of the past 5 years as documented by a CFEC permit and signed fish tickets and/or appropriate NMFS documentation (starting date for five years is 2003).

Suboption 1. include crew in the license program.

Suboption 2. require that new Certified Skippers licenses accrue to individuals with demonstrated fishing experience (Groundfish – BSAI/GOA, state or federal waters) similar to halibut/sablefish program.

Under any alternative that establishes QS and annual harvest privileges, access to those annual harvest privileges is allowed only when fishing with a Certified Skipper onboard. Certified Skipper Licenses are non-transferable. They accrue to an individual and may not be sold, leased, bartered, traded, or otherwise used by any other individual.

Defer remaining issues to a trailing amendment and assumes simultaneous implementation with rationalization program.

(2.8 can be applied to alternative 2

Council should clarify whether this skipper program would apply to the allocation of bycatch to skippers of halibut and sablefish vessels)

2.9 Communities

(any options in 2.9 can be applied to alternative 2)

Note: Bering Sea/Aleutian Islands communities (CDQ or otherwise) and communities adjacent to the Eastern GOA regulatory area Southeast Outside District (except Yakutat) will not be included in any Gulf rationalization community protection programs.

2.9.2 Regionalization

Regionalization options may be selected under any of the proposed alternatives for Gulf rationalization.

If adopted, all processing licenses (for shorebased and floating processors) will be categorized by region.

- Processing licenses that are regionally designated cannot be reassigned to another region.
- Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught.
- Catcher processor shares and incentive fisheries are not subject to regionalization.
- Qualifying years to determine the distribution of shares between regions will be consistent with the preferred alternative under “Section 2.2 Qualifying Periods”.

(the system of processor linkages could complicate the designation of harvest shares,

- 1) unless linkages are regionalized – i.e., one linkage per region in which a harvester has shares or*
- 2) all harvest shares are designated for the region in which the harvester’s linked processor is located)*

Under alternative 2 linkages could be applied to only trawl catcher vessel shares

Topic 8

Central Gulf: Two regions are proposed to classify harvesting shares: North - South line at 58° 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area) extending west to east to the intersection with 140° W long, and then southerly along 140° W long.).

The following fisheries will be regionalized for shorebased (including floating) catch and subject to the North - South distribution: Pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock

2.9.2 Community Fisheries Quota (CFQ)

2.9.2.1 Administrative Entity

- Gulf wide administrative entity
- Regional administrative entities (Western Gulf, Central Gulf, Eastern Gulf)
- Multi-community administrative entities
- The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.9.2.2 Eligible Communities

- Population (based on 2000 Census):
 - Less than 1,500
 - Less than 2,500
 - Less than 5,000
 - Less than 7,500
- Geography
 - Coastal Communities without road connections to larger community highway network
 - Coastal communities adjacent to salt water
 - Communities within 10 nautical miles of the Gulf Coast
 - Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.
- Historic Participation in Groundfish Fisheries
 - Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
 - Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut

Option 4. Government Structure

- a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
- b. All other eligible communities

2.9.2.3 Species

- Option 1. All rationalized groundfish species
- Option 2. Limited to species that can be caught without (hard on) bottom trawling

2.9.2.4 Allocation

- Option 1. 5% of annual TAC
- Option 2. 10% of annual TAC
- Option 3. 15% of annual TAC

2.9.2.5 Harvesting of Shares

- Option 1. Limited to residents of eligible communities that own their vessels
- Option 2. Limited to residents of eligible communities
- Option 3. No limitations on who harvests shares
- Option 4. No offshore leases to CPs.

2.9.2.6 Use of Revenue

- Option 1. Community development projects that tie directly to fisheries or fishery related projects and education.
- Option 2. Community development projects that tie directly to fisheries and fisheries related projects, education and government functions.
- Option 3. Education, social and capital projects within eligible communities as well as governmental functions.

2.9.2.7 Qualification of Administrative Entity

The administrative entity must submit a detailed statement of eligibility to NMFS and the State prior to being qualified. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation.

2.9.2.8 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

2.9.4 Community Purchase Program

2.9.3.1 Administrative Entity

Option. The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.9.3.2 Eligible communities

Option 1. Population (based on 2000 Census):

- a. Less than 1,500
- b. Less than 2,500
- c. Less than 5,000
- d. Less than 7,500

Option 2. Geography

- a. Coastal Communities without road connections to larger community highway network
- b. Coastal communities adjacent to salt water
- c. Communities within 10 nautical miles of the Gulf Coast
- e. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western

GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.

Option 3. Historic Participation in Groundfish Fisheries

- a. Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
- b. Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut

Option 4. Government Structure

- a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
- b. All other eligible communities

2.9.3.3 Qualification of Administrative Entity

The administrative entity must submit a detailed statement of eligibility to NMFS and the State prior to being qualified. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation.

2.9.3.4 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

2.9.4 Community Incentive Fisheries Trust (CIFT)

The CIFT has full ownership of CIFT harvest shares and holds these shares in trust for the communities, processors and crewmembers in the region to use as leverage to mitigate impact directly associated with implementation of a rationalization program.

2.9.4.1 Harvest Share Distribution

10-30 % of harvest shares shall be originally reserved for GOA CIFT associations. These harvest shares will be a pool off the top before individual distribution of harvest shares.

2.9.4.2 CIFT Designation

Option 1. One CV CIFT for entire GOA (exclude SEO)

Option 2. Regional CV CIFTs:

Suboption 1. Central GOA (Kodiak, Chignik)

Suboption 2. Western GOA

Suboption 3. North Gulf Coast (Homer to Yakutat)

Option 3. CP-based CIFT

Defer remaining issues to a trailing amendment

2.10 PSC for Crab and Salmon

The Council requests that staff prepare a discussion paper showing historical data for the bycatch of salmon and crab by species, area, and year for areas subject to the GOA rationalization program. The Council intends to review these data and develop bycatch measures for salmon and crab which will be implemented as part of this rationalization program. The Council intends to develop options for analysis that could be incorporated no later than the October 2003 meeting.

(2.10 could be applied to alternative 2)

2.11 Review and Evaluation

2.11.1 Data collection.

A mandatory data collection program would be developed and implemented. The program would collect cost, revenue, ownership and employment data on a periodic basis to provide the information necessary to study the impacts of the program. Details of this program will be developed in the analysis of the alternatives.

2.11.2 Review and Sunset

- Option 1. The program would sunset unless the Council decides to continue or amend the program. The decision of whether to continue or amend would be based on a written review and evaluation of the program's performance compared to its objectives.
 - Suboption 1. 5 years after fishing under the program
 - Suboption 2. 7 years after fishing under the program
 - Suboption 3. 10 year schedule after fishing under the program
 - Suboption 4. No sunset provision.
- Option 2. Formal program review at the first Council Meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities, by addressing concerns, goals and objectives identified in the problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

(2.11 could be applied to alternative 2)

2.12 Sideboards

GOA Groundfish sideboards under the crab rationalization plan and under the AFA would be superceded by the GOA rationalization program allocations upon implementation.

Participants in the GOA rationalized fisheries are limited to their historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries **and the Gulf jig fisheries**.

Vessels (Steel) and LLPs used to generate harvest shares used in a co-op may not participate in other federally managed open access fisheries in excess of sideboard allotments.

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries, **and the Gulf jig fisheries**.

The Council noted its intent to further develop sideboard measures for analysis.

(2.13 could be applied to alternative 2)

The Council should clarify whether any difference is intended between the 2nd and 4th sentences and delete one if not. Deletion of the 2nd sentence is more appropriate as sideboards are typically aggregate. In addition, the Council should consider whether the sideboards for SEO groundfish are necessary, if the allocations of bycatch proposed by section 2.1 are made.

Topic 19

3 Processing Sector Provisions

3.2 Provisions for a Closed Class of Processors

3.1.1 Harvester Delivery requirements

3.1.1.1 Closed class delivery requirements

Option 1: For trawl catcher vessel shares, 50-100% of ~~CV~~ harvest share allocation will be reserved for delivery to:

- i. the linked qualified closed trawl or fixed class processor **(or)**
- ii. any qualified closed trawl or fixed or large or small class processor

The remaining (50 -0%) CV harvest share allocation can be delivered to:

- iii. any processor excluding CPs
- iv. any processor including CPs

Option 1: For high producing fixed gear catcher shares, 50-100% of CV harvest share allocation will be reserved for delivery to:

- i. the linked qualified closed trawl or fixed class processor .
- ii. any qualified closed trawl or fixed or large or small class processor

The remaining (50 -0%) CV harvest share allocation can be delivered to:

- i. any processor excluding CPs
- ii. any processor including CPs

—**Option 2.** Low producing **fixed gear catcher** vessels are exempt from closed class delivery requirements

(With changes, 3.1.1.1 would apply to alternative 2)

Catcher/processor should be defined, if a restriction on deliveries to C/Ps is adopted

Topic 22

3.1.1.2 Linkage: For trawl catcher vessels

Option 1.—A harvester's processor linked shares are associated with the qualified fixed or trawl closed class large or small processor to which the harvester delivered the most pounds of groundfish during

Option 2. the last ____ years of the harvester allocation base period.

- i. 1
- ii. 2
- iii. 3

If the processor with whom the harvester is associated with is no longer operating, the harvester is eligible to deliver to any qualified processor. *(The Council should clarify whether a linkage would be established by a harvester delivering to a qualified processor)*

(3.1.1.2 applies only to trawl catcher vessels – only if linkages are included in alternative 2)

Topic 12

The Council requests that staff provide a discussion paper addressing the effect of a use cap on the number of processors in a region.

3.1.1.3 For trawl catcher vessels:

Penalties for moving between linked processors

Option 1. No share reduction for moving between processor year to year

Option 2. Share reductions of 10-20% each time a harvester moves to a different linked processor for:

- i. 1 year
- ii. 2 years
- iii. 4 years

The share reduction shall be redistributed to:

- iii. The shareholders in association with that processor that the shareholder left (if it continues to exist).
- iv. To all cooperatives in the sector on a pro rata basis. (applies if mandatory cooperatives)

Option 3. Penalty to move depends on the amount of open access B share fish. Vessel leaves A share for one year.

Suboption: Penalty applies to both A and B shares.

Closed A share class	Open B share class	Penalty on total amount of A and B shares	Ratio of penalty on A shares to B shares
----------------------	--------------------	-------------------------------------------	------------------------------------------

90%		10%	10%	9:1 (9%)
80%		20%	20%	4:1 16%
70%		30%	30%	7:3 (21%)
60%		40%	40%	3:2 (24%)
50%		50%	50%	1:1 (25%)

Option 4. One year penalty in open access.

Option 5. No penalty. Movement allowed only upon agreement between Coop members and affiliated processor.

(3.1.1.3 would apply only to trawl catcher vessels – only if linkages are included in alternative 2)

Topic 13

3.1.1.4 Low producing vessel provisions

i. Low producing vessels are defined as:

Option 1. H&L or pot CVs receiving less than average QS initially allocated by gear, species and area

Option 2. H&L or pot CVs receiving less than the 75th percentile QS initially allocated by gear, species and area

ii. Provisions for low producing vessels

~~Option 1.~~ Low producing vessels are exempt from closed class delivery provisions

~~Option 2.~~ Subject to block program.

(3.1.1.4 applies in alternative 2, including option 1

The relationship of Option 2 to the block program should be clarified and might clearest if incorporated into 2.7.1, which defines the block program options)

3.1.2. Closed Class Processor Qualifications

3.1.2.1 To purchase groundfish required to be delivered to a qualified processor must have purchased and processed a minimum amount of groundfish as described below in at least 4 of the following years:

Option 1. 1995-99.

Option 2. 1995-01

Option 3. 1995-02

Option 1. a. Trawl eligible Processors

Suboption 1. 2000 mt

Suboption 2. 1000 mt

Suboption 3. 500 mt

b. Fixed gear eligible Processors

Suboption 1. 500 mt

Suboption 2. 200 mt

Suboption 3. 50 mt

c. Trawl and Fixed gear eligible processors

Meet criteria for both the closed class trawl process catch and closed class fixed gear process catch as described above

Option 2. a. Large closed class processor

Suboption 1. 2000 MT

Suboption 2. 1000 MT

Suboption 3. 500 MT

b. Small closed class processor

Suboption 1. 500 MT
Suboption 2. 200 MT
Suboption 3. 50 MT

- c. Open class processor – no groundfish landing qualifications – can purchase any amount of open class B share QS.

3.1.2.1 would apply to alternative 2

3.1.2.2 Processor history would be credited to (and licenses would be issued to):

- Option 1. Operator – must hold a federal or state processor permit.
Option 2. Facility owner

Suboption. Custom processing history would be credited to:

- j. the processor that physically processes the fish
ii. the processor that purchases the fish and pays for processing

The Council could decide whether licenses are facility or company based. In making this decision the Council should also consider whether licenses and linkages are regionalized (see 2.9.1 and 3.1.2.2)

Topic 10

3.1.2.3 Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

- Option 1. Within the same community
Option 2. Within the same region

3.1.2.3 would apply to alternative 2

Topic 9

3.1.2.4 Processing Use caps by closed class processor type (trawl, fixed or trawl and fixed (low or large), by CGOA and WGOA regulatory areas:

- Option 1. Range 70% to 130% of TAC processed for all groundfish species for the largest closed class processor
Option 2. Processing use caps for small closed class processors
i. 1000 to 2000 MT
ii. 2000 to 3000 MT

(Note: There is no limit on the amount of fish either a small or large closed class processor can buy from the open B share classed fish)

3.1.2.4 would apply to alternative 2

3.1.2.5 Processing Caps may apply at:

- Option 1. the facility level
Option 2. the entity level

3.1.2.5 would apply to alternative 2

Topic 7

3.1.2.7 Closed class license ownership restrictions on processors

- Option 1. No restrictions
Option 2. Trawl/fixed license holders cannot hold any additional fixed gear only licenses.
Option 3. Large closed class processors cannot hold small closed class processors licenses.

The Council could add an option that limits the number of licenses a processor may hold.

3.1.2.6 would apply to alternative 2

The Council might consider options to limit the number of licenses a processor can hold to provide for competition and entry.

Topic 15

4 Cooperative Provisions

4.1 Cooperative type (voluntary or mandatory)

Option 1. For low producing fixed gear catcher vessel shares, cooperative membership will be voluntary (i.e., harvest shares (IFQ) will be allocated to non-members)

Option 2. For catcher/processor, trawl catcher vessel and high producing fixed gear catcher vessel shares, cooperative membership will be mandatory (i.e., harvest shares will be allocated only to cooperatives)

4.3 Cooperative formation

4.2.1 Co-ops can be formed between holders of harvest shares or history of:

- i. any type
- ii. the same area, gear, vessel type (CV or C/P), and/or vessel length class
- iii. the following classes of shares/history
 - C/P
 - CV trawl
 - high producing fixed gear catcher vessels
 - low producing fixed gear catcher vessels
 - CV longline
 - CV pot
 - C/P trawl
 - C/P longline
 - C/P pot
- iv. All CV in the same area (WGOA and CGOA & WY combined)
 - CV trawl
 - CV fixed gear
 - CV longline
 - CV pot

Each group of share/history holders of a defined class that may form cooperatives is defined as a “sector.”

Rules defining cooperatives are unclear

Sectors that appear to be defined by the motion are:

Catcher/processors

Trawl catcher vessels

High producing fixed gear catcher vessels

Low producing fixed gear catcher vessels

The area concept of iv could be applied to catcher vessels and/or catcher processors

Topic 4

4.3.1.1 Coop/processor affiliations

Option 1. No association required between processors and coops

Option 2. CV cooperatives must be associated with

a) a processing facility

b) a processing company

(The Council could decide whether linkages are on a facility or company basis – this should be consistent with 3.1.2.2)

Also in making the decision, the Council should consider whether linkages are regionalized (see 2.9.1)

Topic 7

The Council must decide if processor associations are required for 1) high producing fixed gear catcher vessel cooperatives and 2) low producing fixed gear catcher vessel cooperatives

For trawl catcher vessel share cooperatives, the associated processor must be a closed class processor to which the share holder's shares are linked.

If processor association is required:

For high producing fixed gear catcher vessel cooperatives the associated processor must be:

- ~~a) a licensed processor~~
- e) a qualified processor (if closed processor class is selected)
- ~~f) a closed class processor to which the share holder's shares are linked~~
- ~~d) any processing share holder (if processor shares are selected) (note: should be deleted)~~

For low producing fixed gear catcher vessel cooperatives the associated processor must be:

- a) a licensed processor
- ~~g) a qualified processor (if closed processor class is selected)~~
- ~~h) a closed class processor to which the share holder's shares are linked~~
- ~~d) any processing share holder (if processor shares are selected) (note: should be deleted)~~

Option 3. A harvester is eligible to join a cooperative associated with the qualified fixed or trawl closed class large or small processor to which the harvester delivered the most pounds of groundfish during the last [1, 2, or 3] years of the harvester allocation base period. If the processor with whom the harvester is eligible to form a coop is no longer operating, the harvester is eligible to join a coop with any qualified processor.

(Option 3 can be deleted since it is the same as 3.1.1.2)

Suboption 1. Processors can associate with more than one co-op

Suboption 2. Processors are limited to 1 co-op per plant for each sector.

Council could decide whether multiple cooperatives are permitted. This should be coordinated with the cooperative formation rules of 4.2.2.2

~~Suboption 3. Processor affiliated vessels may join coops. (moved from header)~~

(For each sector, the Council needs to define the cooperative association under 4.2.1.1)

Processor affiliated vessels would be excluded from allocations if not permitted to be in cooperatives (except for low producing fixed gear catcher vessels that are in an voluntary cooperative program under this alternative)

Topic 11

Note: A processor association will not be required for a C/P cooperative.

4.2.2 Cooperatives are required to have at least:

Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)

Option 2. 50-100 percent of the harvest shares (or catch history) of its sector (may choose different percentages for different sectors)

Option 3. 50-100% of shareholder entities belonging to its sector. Council may choose different percentages for different sector.

Option 4. 50-75 percent of the harvest shares (or catch history) of the eligible harvest share (or catch history) for each coop associated with its processor

Note: Requirements may differ across sectors (or for CV and CP cooperatives)

(4.2.2 applies under alternative 2)

Topic 14

4.2.3 Duration of cooperative agreements:

- Option 1. 1 year
- Option 2. 3 years
- Option 3. 5 years

(4.2.3 applies under alternative 2)

4.2.5 Allocation Prerequisites

Allocations to CV co-ops will only be made under the following conditions:

Required Co-op agreement elements:

Harvesters and processors are both concerned that rationalization will diminish their current respective bargaining positions. Therefore, a pre-season co-op agreement between eligible, willing harvesters and an eligible, and willing processor is a pre-requisite. The co-op agreement must contain a fishing plan for the harvest of all co-op fish.

***(The Council should decide which sectors this applies to –
trawl catcher vessel share cooperatives
high producing fixed gear catcher vessel share cooperatives
low producing fixed gear catcher vessel share cooperatives)***

4.3 Rules Governing Cooperatives

4.3.1 Annual Allocations

- ~~Option 1.~~ Annual allocations of cooperative members would be issued to the cooperative.
- ~~Option 2.~~ Annual allocation of the sector would be issued to the sector cooperative (if “true” sector cooperative alternative is selected)

Option 1 applies to all participants

- Co-op members may internally allocate and manage the co-op’s allocation per the co-op membership agreement. Subject to any harvesting caps that may be adopted, member allocations may be transferred and consolidated within the co-op to the extent permitted under the membership agreement.
- Monitoring and enforcement requirements would be at the co-op level. Co-op members are jointly and severally responsible for co-op vessels harvesting in the aggregate no more than their co-op’s allocation of ~~target~~ **primary** species, ~~non-target~~ **secondary** species and halibut mortality, as may be adjusted by interco-op transfers.
- Co-ops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Co-ops may penalize or expel members who fail to comply with their membership agreement. Processor affiliates cannot participate in price setting negotiations except as permitted by general antitrust law.
- Co-ops may engage in inter-cooperative transfers to the extent permitted by rules governing transfers of shares among sectors (e.g., gear groups, vessel types).
- **A cooperative must accept membership of any eligible persons subject to the same terms and conditions as other members.**

Topic 14

All bullets can be applied to all cooperatives – the last bullet may not be necessary for voluntary cooperatives (in the low producing fixed gear catch vessel sector)

4.4 Ownership and Use Caps and Underages

- 4.4.2 Set co-op use caps at 25 to 100% of total TAC by species (must choose 100 percent for a “true” sector cooperative)

***This provision can be applied to all cooperatives
Council should clarify whether this is intended to be applied on a sector basis***

(if the cap is set a 75 percent, could a trawl catcher vessel share cooperative use 75 percent of the cod fishery or only 75 percent of the cod allocated to trawl catcher vessels)

4.4.2 Coop use caps for harvest shares on any given vessel shall be:

- Option 1. Set at the same level as the individual vessel level.
- Option 2. 3 times individual vessel use cap.
- Option 3. No use caps

- To effectively apply individual ownership caps, the number of shares or history that each cooperative member could hold and bring to cooperatives would be subject to the individual ownership caps (with initial allocations grandfathered). Transfers between cooperatives would be undertaken by the members individually, subject to individual ownership caps.

- Underage limits would be applied in the aggregate at the co-op level

(provisions of 4.2.2 can be applied to all cooperatives)

4.5 Movement between cooperatives

4.6.2 Harvesters may move between cooperatives at:

- Option 1. the end of each year.
- Option 2. the expiration of the cooperative agreement.
- Option 3. No movement in the first two years

(provisions of 4.5.1 can be applied to all cooperatives)

4.6.3 License Transfers Among Processors (applies only if closed class of processors)

For trawl catcher vessel share cooperatives:

- Option 1. any cooperative association with that license will transfer to the processor receiving the license. All harvest share/history holders will be subject to any share reduction on departing the cooperative, as would have been made in the absence of the transfer.
- Option 2. any cooperatives associated with the license will be free to associate with any qualified processor. Harvest share/history holders in the cooperative will be free to move among cooperatives without share/history reduction.

For fixed gear catcher vessel share cooperatives with processor associations

- ~~Option 2.~~ any cooperatives associated with the license will be free to associate with any qualified processor. Harvest share/history holders in the cooperative will be free to move among cooperatives without share/history reduction.

Both options in 4.5.2 could apply to trawl catcher vessel shares – which are linked to a processor

Option 2 could be applied to fixed gear catcher vessel share cooperatives, which do not have processor linkages

4.7 Non-Members of Cooperatives (applies only if mandatory cooperatives)

4.7.1 **Catcher processor, trawl catcher vessel and high producing fixed gear catcher vessel** harvest share/history holders that do not choose to join a co-op

- ~~Option 1.~~ May fish in open access, provided NMFS determines that the non-cooperative allocation is sufficient to conduct an open access fishery. The open access fishery will be comprised of all shares of harvesters that are not cooperative members of the same sector (i.e., area, vessel type (CV or C/P), and/or gear). NMFS will have the discretion to determine the distribution of ~~bycatch~~ **secondary and PSC** among ~~target~~ **primary** species open access fisheries from shares of harvesters holding ~~bycatch~~ **secondary and PSC** shares for multiple ~~target~~ **primary** fisheries.

- ~~Option 2.~~ Are not allowed to participate in the rationalized fisheries until they join a co-op.

*An open access is provided for c/p, trawl cv, and high producing fixed gear catcher vessel share holders
Low producing fixed gear cv share holders are in a voluntary cooperative program, so the open access
option is not relevant*

*The Council should provide whether open access participants are subject to any processor/regional
landing requirements*

TRAILING AMENDMENTS

The Council intent is for these trailing amendments to be implemented simultaneously with the main rationalization program.

4.Fee and Loan Program

5.Skipper/Crew Share Program issues

6.Remaining issues of CIFT program

**ATTACHMENT A3
TO ALTERNATIVE DESCRIPTIONS AND DISCUSSION PAPER
OCTOBER 2003**

ALTERNATIVE 3

**NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
GULF OF ALASKA GROUND FISH RATIONALIZATION
ELEMENTS AND OPTIONS
June 16, 2003
(ANNOTATED BY STAFF)**

Annotations describing the application of elements and options to the alternatives are bolded and italicized.

Staff proposed revisions are shown in bold and strikeout

Shading denotes differences between alternatives

3 Status Quo (No Action Alternative)

2 Harvest Sector Provisions

2.1 Management Areas:

Areas are Western Gulf, Central Gulf, and West Yakutat—separate areas

For Pollock: 610 (Western Gulf), 620 and 630 (Central Gulf), 640 (West Yakutat (WY))

- Shortraker and rougheye (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis
- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation ***Topic 16***
- SEO is exempt except for SR/RE and thornyhead rockfishes as ~~bycatch~~ ***secondary*** species. Allocation will be based on ~~target catch in~~ ***landings of*** sablefish, halibut, Demersal Shelf Rockfish and P. cod fishery ***Topic 29***

Gear: Applies to all gear except jig gear—

Option 1. The jig fishery would receive an allocation based on its historic landings in the qualifying years – the jig fishery would be conducted on an open access basis.

Option 2. Gear would be accounted for in a manner similar to sport halibut harvests in halibut IFQ fishery.

Suboption: Cap jig harvest at ____% of current harvest by species and area:

1. 125%
2. 150%
3. 200%

(All of 2.1 applies to alternative 3)

2.2 Qualifying periods and landing criteria (same for all gears in all areas)

(The analysis will assess AFA vessels as a group)

Option 1. 95-01 drop 1

Option 2. 95-02 drop 1

Option 3. 95-02 drop 2

Option 4. 98-02 drop 1

(All of 2.2 applies to alternative 3)

2.2.1 Qualifying landing criteria

Landings based on retained catch for all species (includes weekly processor report for Catcher/Processor sector)

NOTE: Total pounds landed will be used as the denominator.

Catch history determined based on the poundage of retained catch year (does not include meal)

Suboption: catch history for P. cod fisheries determined based on a percentage of retained catch per year (does not include meal)

(All of 2.2.1 applies to alternative 3)

2.2.4 Eligibility

LLP participation

Option 1. Eligibility to receive catch history is any person that holds a valid, permanent, fully transferable LLP license.

Suboption 1. Any person who held a valid interim LLP license as of January 1, 2003.

Suboption 2. Allow the award of retained incidental groundfish catch history arising from the halibut and sablefish IFQ fishery.

Basis for the distribution to the LLP license holder is: the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per license. In cases where the fishing privileges (i.e., moratorium qualification or LLP license) of an LLP qualifying vessel have been transferred, the distribution of harvest shares to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. (Only one catch history per LLP license.)

Option 2. Non-LLP (State water parallel fishery) participation

Suboption 1. Any individual who has imprinted a fish ticket making non-federally permitted legal landings during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

Suboption 2. Vessel owner at time of non-federally permitted legal landing during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

(All of 2.2.2 applies to alternative 3)

The Council requests NMFS RAM review LLP transfers and report on the frequency with which the transfers also include provisions governing catch history.

2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

~~Option 1. Status Quo Federal TAC taken in federal waters and in state waters, during a 'parallel' fishery, plus state water fisheries exist for up to 25% of the TAC for Pacific cod.~~

Retention of the status quo is not possible in a rationalized fishery.

Option 2. Direct allocation of portion of TAC to fisheries inside 3 nm.

No 'parallel' fishery designation, harvest of remaining federal TAC only occurs in federal zone (3 – 200 nm); and

Council allocates _____ % of the TAC, by species by FMP Amendment, to 0-3 nm state water fisheries representing a range of harvests that occurred in state waters. This could include harvest from the status quo parallel fishery and the state waters P. cod fisheries. State waters fisheries would be managed by ADF&G through authority of, and restrictions imposed by, the Board of Fisheries.

Area or species restrictions:

Suboption 1. Limited to Pollock, P. cod, flatfish, and/or pelagic shelf rockfish (light and dark dusky rockfishes).

Suboption 2. Limited to Western, Central GOA management areas and/or West Yakutat.

Option 3. Parallel fishery on a fixed percentage (____ %) allocation of the federal TAC, to be prosecuted within state waters with additional State restrictions (e.g., vessel size, gear restrictions, etc to be imposed by the BOF).

Fixed allocation for:

Suboption 1. P. cod

Suboption 2. Pollock

Suboption 3. All other GOA groundfish species

(Options 2 and 3 apply to alternative 3)

Council requests that staff provide an analysis of catch data showing harvest inside 3 nm by gear, species, vessel size and area. The Council recommends that this issue be reviewed by the Joint Protocol Committee at its next meeting (tentatively identified as July 28/29 in Anchorage).

2.3 Target Primary Species Rationalization Plan

Target Primary Species by Gear

Topic 29

2.3.1 Initial Allocation of catch history

Option 1. Allocate catch history by sector and gear type

(Option 1 might apply to alternative 3 – Option 2 remains necessary for share allocations even if the Council decides to include option 1 in alternative 3)

Option 2. Allocate catch history on an individual basis

a. Trawl CV and CP:

Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish

b. Longline CV and CP:

Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder

c. Pot CV and CP:

Pacific Cod

(Option 2 applies to both alternative 3)

Topic 1

2.3.4 Harvest share (or QS/IFQ) Designations

~~2.3.4.1 Vessel Designation of low producers and high producers in the fixed gear class.~~

~~Low producing vessels are:~~

~~Option 1. less than average harvest shares initially allocated by gear, species and area~~

~~Option 2. less than the 75th percentile harvest shares initially allocated by gear, species and area
High producing vessels are the remainder.~~

(2.3.2.1 does not apply to alternative 3)

2.3.2.2 Harvest share sector designations:

~~Option 1. No designation of harvest shares (or QS/IFQ) as CV or CP~~

(This option does not apply and may be deleted)

~~Option 2. Designate harvest shares (or QS/IFQ) as CV or CP. Annual CV harvest share allocation (or IFQ) conveys a privilege to harvest a specified amount. Annual CP harvest share allocation (or IFQ) conveys the privilege to harvest and process a specified amount. Designation will be based on:~~

~~Actual amount of catch harvested and processed onboard a vessel by species.~~

(Option 2 applies to alternative 3)

Topic 2

2.3.2.3 Harvest share gear designations

~~Option 1. No gear designation~~

~~Option 2. Designate harvest shares as Longline, Pot, or Trawl~~

~~Option 3. Longline and pot gear harvest shares (or IFQ) may not be harvested using trawl gear.~~

~~Option 4. Pot gear harvest shares (or IFQ) may not be harvested using longline gear~~

Alternative 3 suggests three gear designations are intended

The alternative is not clear concerning use of shares of one gear type using another gear

Topic 3

2.3.2.4 If a closed class of processor alternative is chosen, CV harvest shares will be issued in two classes. Class A shares will be deliverable to a qualified processor or processor shareholder (as applicable). Class B shares will be deliverable to any processor as authorized under this program.

Option. Only the annual allocations will be subject to the Class A/Class B distinction. All long term shares or history will be of a single class.

2.3.2.4 applies to all catcher vessel shares under this alternative

2.3.3 Transferability and Restrictions on Ownership of Harvest shares (or QS/IFQ)

2.3.3.1 Persons eligible to receive harvest shares by transfer must be (not mutually exclusive):

Option 1. US citizens who have had at least 150 days of sea time

Option 2. Entities that have a U. S. citizen with 20% or more ownership and at least 150 days of sea time

Option 3. Entities that have a US citizenship with 20% or more ownership

Option 4. Initial recipients of CV or C/P harvest share

Option 5. US Citizens eligible to document a vessel.

Option 6. Communities would be eligible to receive harvest shares by transfer (this provision would be applicable if certain provisions of 2.9 are adopted.)

Definition of sea time

Sea time in any of the U.S. commercial fisheries in a harvesting capacity. ***(moved from 2.3.3.5)***

(All of 2.3.3.1 applies to alternative 3 – Council should consider reducing the options and possibly revising Option 5 to provide for “any person eligible to document a vessel”)

Topic 5

2.3.3.2 Restrictions on transferability of CP harvest shares

Option 1. CP harvest shares maintain their designation upon transfer.

- Option 2. CP harvest shares maintain their designation when transferred to persons who continue to catch and process CP harvest shares at sea, if CP harvest shares are processed onshore after transfer, CP harvest shares convert to CV harvest shares.
- Option 3. CP harvest shares maintain their designation after transfer for 5 years following implementation, after which time any transfer of CP shares convert to CV shares.

(All of 2.3.3.2 applies to alternative 3 – the Council should consider selecting a preferred option)

Topic 6

2.3.3.3 Redesignate CP shares as CV shares upon transfer to a person who is not an initial issuee of CP shares:

- Option 1. all CP shares
- Option 2. trawl CP shares
- Option 3. longline CP shares

(All of 2.3.3.3 applies to alternative 3 – the Council should consider selecting a preferred option)

If the Council selects an option that results in the redesignation of C/P shares as CV shares, the Council will need to provide for the designation of the resulting CV shares (i.e., any regionalization, processor linkages, etc.)

Topic 6

2.3.3.4 Vertical integration

Harvest shares initial recipients with more than 10% limited threshold ownership by any processor are capped at:

- Option 1. initial allocation of harvest CV and CP shares.
- Option 2. 115-150% of initial allocation of harvest CV shares.
- Option 3. 115-150% of initial allocation of harvest CP shares.

(All of 2.3.3.4 applies to alternative 3)

~~2.3.3.5 Definition of sea time~~

~~— Sea time in any of the U.S. commercial fisheries in a harvesting capacity.~~

~~Move to 2.3.3.2~~

2.3.3.6 Leasing of QS (“leasing of QS” is defined as the transfer of annual IFQ permit to a person who is not the holder of the underlying QS for use on any vessel and use of IFQ by an individual designated by the QS holder on a vessel which the QS holder owns less than 20% -- same as “hired skipper” requirement in halibut/sablefish program).

- Option 1. No leasing of CV QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
- Option 2. No leasing of CP QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
- Option 3. Allow leasing of CV QS, but only to individuals eligible to receive QS/IFQ by transfer.
- Option 4. Allow leasing of CP QS, but only to individuals eligible to receive QS/IFQ by transfer.
- Option 5. Sunset [CP – CV] QS leasing provisions [3 – 5 – 10] years after program implementation.

It is not clear if any of 2.3.3.6 would apply since alternative 3 is a mandatory cooperative program – the Council should clarify whether this provision would apply

This provision could be applied to halibut and sablefish IFQ holders that receive an allocation

Topic 21

2.3.3.7 Separate and distinct harvest share use caps

Individual caps apply to all harvesting categories by species with the following provisions:

1. Apply individually and collectively to all harvest share holders in each sector and fishery.

2. Percentage-caps by species are as follows (a different percentage cap may be chosen for each fishery):
 - i. Trawl CV and/or CP (can be different caps):

Use cap based at the following percentile of catch history for the following species:
(i.e., 75th percentile represents the amount of harvest shares that is greater than the amount of harvest shares for which 75% of the fleet will qualify.)

pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, pelagic shelf rockfish

Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %
 - ii. Longline and Pot CV and/or CP (can be different caps)

based on the following percentiles of catch history for the following species:
Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if Greenland turbot is targeted), northern rockfish

Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %
3. Conversion of CP shares:
 - i. CP shares converted to CV shares

Option 1. will count toward CV caps
Option 2. will not count toward CV caps at the time of conversion.
 - ii. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP shares to CV shares alone will not require a CP shareholder to divest CP shares for exceeding the CP share cap.

Vessel use caps on harvest shares harvested on any given vessel shall be set at two times the individual use cap for each species. Initial issues that exceed the individual or vessel use caps are grandfathered at their current level as of a control date of April 3, 2003; including transfers by contract entered into as of that date.

*All of 2.3.3.7 would apply to alternative 3
Proposed changes are to clarify the provision
Topic 17*

2.3.3.8 Owner On Board Provisions

Provisions may vary depending on the sector or fishery under consideration (this provision may be applied differently pending data analysis)

- i. All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued harvest share units.
 - Suboption 1. No owner on board restrictions.
 - Suboption 2. A portion (range of 5-100%) of the quota shares initially issued to fishers/ harvesters would be designated as "owner on board."
 - Suboption 3. All initial issues (individual and corporate) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares for a period of 5 years after implementation.
 - Suboption 4. Shares transferred to initial issuees in the first 5 years of the program would be considered the same as shares initially issued (range of 5 –100% of the quota shares). See above NOTE
 - Suboption 5. "Owner on board" shares transferred by initial issuees, after the grace period, would require the recipient to be aboard the vessel to harvest the IFQ.

Suboption 6. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of (Range 1-3 years).

ii. Vessel categories for owner on board requirements

Option 1. No Categories

Option 2. Vessel Categories as follows

Vessels < 60'

Vessels \geq 60' and < 125'

Vessels \geq 125'

(The Council should clarify which vessel categories and sectors this provision would apply to)

Note – This is only provision that would create vessel length classes – how are these vessel classes intended to be applied – can shares of one vessel length class be used on a vessel that is not in the length class

(all of 2.3.3.8 could be applied to alternative 3)

Topic 20

2.3.3.9 Overage Provisions

i. Trawl CV and CP:

Suboption 1. Overages up to 15% or 20% of the last trip will be allowed— greater than a 15% or 20% overage result in forfeiture and civil penalties. An overage of 15% or 20% or less, results in the reduction of the subsequent year's annual allocation or IFQ. Underages up to 10% of last trip harvest shares (or IFQ) will be allowed with an increase in the subsequent year's annual allocation (or IFQ).

Suboption 2. Overage provisions would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be charged if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

ii. Longline and pot CV and CP:

Overages up to 10% of the last trip will be allowed with rollover provisions for underages— greater than a 10% overage results in forfeiture and civil penalties. An overage of less than 10% results in the reduction of the subsequent year's annual allocation or IFQ. This provision is similar to that currently in place for the Halibut and Sablefish IFQ Program (CFR 679.40(d)).

Suboption. Overages would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be allowed if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

(all of 2.3.3.9 could be applied to alternative 3)

2.3.3.10 Retention requirements for rockfish, sablefish and Atka mackerel:

Option 1. no retention requirements.

Option 2. require retention (all species) until the annual allocation (or IFQ) for that species is taken with discards allowed for overages

Option 3. require 100% retention (all species) until the annual allocation (or IFQ) for that species is taken and then stop fishing.

(all of 2.3.3.10 could be applied to alternative 3)

2.3.3.11 Limited processing for CVs

Option 1. No limited processing

- Option 2. Limited processing of rockfish species by owners of CV harvest shares is allowed up to 1 mt of round weight equivalent of rockfish per day on a vessel less than or equal to 60ft LOA.

(all of 2.3.3.11 could be applied to alternative 3)

The Council will need to clarify whether harvests processed on board would be

1) exempt from the processor linkage requirements

2) would be from B shares – that can be delivered to any processor

2.3.3.12 Processing Restrictions

Option 1. CPs may buy CV fish

Suboption. 3 year sunset

Option 2. CPs would be prohibited from buying CV fish

Option 3. CPs are not permitted to buy fully utilized species (cod, pollock, rockfish, sablefish, and allocated portion of flatfish) from CVs.

Suboption. Exempt bycatch amounts of these species delivered with flatfish.

The Council should clarify how these provisions would apply to catcher/processors that are qualified closed class processors – whether the provisions apply to both A and B shares

(all of 2.3.3.12 could be applied to alternative 3)

Topic 22

2.4 Allocation of ~~Bycatch~~ **Secondary Species**

Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish

Includes SEO shortraker, rougheye, and thornyhead rockfish.

i. Allocation of shares

Option 1. Allocate shares to all fishermen (including sablefish & halibut QS fishermen) based on fleet ~~bycatch~~ **secondary species catch** rates by gear:

Suboption 1. based on average catch history by area and target fishery

Suboption 2. based on 75th percentile by area by target fishery

Option 2. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each ~~bycatch~~ **secondary species**.

Suboption 1. Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.

Suboption 2. Pro-rata ~~bycatch~~ reduction **of secondary species** allowances in open access fisheries reduced from ~~historical bycatch rates at allocation of participants by :~~

v. 5%

vi. 10%

iii. 15%

~~Option 3. Bycatch allocations will be awarded to the owners of sablefish and halibut QS, rather than the LLP holders.~~

(the purpose of Option 3 should be clarified – Option 1 includes halibut and sablefish IFQ holders in the allocation – is Option 3 intended to provide IFQ holders with some additional allocation – if not it can be deleted)

Topic 25

ii. Include these species for one gear type only (e.g., trawl). Deduct the ~~bycatch~~ **secondary catch** from gear types from TAC. If deduction is not adequate to cover ~~bycatch~~ **incidental catch** in other gear types, on a seasonal basis, place that species on PSC status until overfishing is reached.

iii. Retain these species on bycatch status for all gear types with current MRAs.

- iv. Allow trawl sablefish catch history to be issued as a new category of sablefish harvest shares (“T” shares) by area. “T” shares would be fully leasable, exempt from vessel size and block restrictions, and retain sector designation upon sale.
Suboption. These shares may be used with either fixed gear or trawl gear.
 - v. Permit transfer of ~~bycatch~~ **QS secondary shares**
 - Option 1. Groundfish **primary** harvest shares and ~~bycatch~~ **secondary** shares are non-separable and must be transferred as a unit.
 - Option 2. Groundfish **primary** harvest shares and ~~bycatch~~ **secondary** shares are separable and may be transferred separately
- (All options can be applied to alternative 3)*

2.5 PSC Species

2.5.1 Accounting of Halibut Bycatch

Pot vessels continue their exemption from halibut PSC caps.

Hook and line and trawl entities

~~Option 1. Same as that under IFQ sablefish and halibut programs~~

~~Option 2. Cooperatives would be responsible for ensuring the collective halibut bycatch cap was not exceeded~~

~~Option 3. Individual share or catch history owners would be responsible to ensure that their halibut bycatch allotment was not exceeded~~

Option 1 appears to propose continuing the current management of PSC. If that is intended, it should be stated directly – “halibut shall continue to be managed under the current rules governing halibut PSC.”

Options 2 and 3 are redundant with provisions elsewhere in this document and should be deleted.

If what is intended by 2 and 3 is that shares be allocated for halibut PSC, that should be stated explicitly – “halibut PSC will be managed through harvest share allocations”

To the extent that the options differ across gear types, the Council should consider separating the options by gear type. In addition, the Council could consider separating sablefish IFQ options, if any are intended.

Topic 18

2.5.2 Halibut PSC Allocation

Each recipient of fishing history would receive an allocation of halibut mortality (harvest shares) based on their allocation of the directed fishery harvest shares. ~~Bycatch-only~~ **Secondary** species would receive no halibut allocation.

Initial allocation based on average halibut bycatch by directed ~~target~~ **primary** species during the qualifying years. Allocations will be adjusted pro rata to equal the existing PSC cap.

By sector average bycatch rates by area by gear:

Option 1. Both sectors

Option 2. Catcher Processor/Catcher Vessel

(2.5.3 applies to alternative 3 if halibut PSC is to be managed by share allocations)

2.5.3 Annual transfer/Leasing of Trawl or Fixed Gear Halibut PSC mortality

Halibut PSC harvest shares are separable from ~~target~~ **primary** groundfish harvest shares and may be transferred independently within sectors. When transferred separately, the amount of Halibut PSC allocation would be reduced, for that year, by:

Option 1. 0%

Option 2. 5%

Option 3. 7%

Option 4. 10%

Option 5. Exclude any halibut PSC transferred for participation in the incentive fisheries

(2.5.3 applies to alternative 3 if halibut PSC is to be managed by share allocations)

The Council should clarify whether primary/PSC allocations can be separated within a cooperative and whether the share separation is penalized – typically cooperative use is aggregated across all vessels that harvest shares on behalf of the cooperative (suggesting no penalty would apply)

The Council should also clarify whether Option 5 is intended to apply to transfers of PSC shares inside or outside of a cooperative)

Topic 26

2.5.4 Permanent transfer of Halibut PSC harvest share mortality

Option 1. Groundfish harvest shares and Halibut PSC harvest shares are non-separable and must be transferred as a unit

Suboption. exempt Pacific cod

Option 2. Groundfish harvest shares and Halibut PSC harvest shares are separable and may be transferred separately

(2.5.4 applies to alternative 3 if halibut PSC is to be managed by share allocations

The suboption exempting cod is assumed to exempt only transfers of PSC between cod share holders)

2.5.5 Retention of halibut bycatch by longline vessels

Halibut bycatch may be retained outside the halibut season from Jan 30 to start of commercial fishery, and from end of commercial fishery through December 15.

Option 1. retention is limited to (range 10-20%) of ~~target~~ **primary** species **clarify whether target or primary is intended here**

~~Option 2. permit holder must have sufficient harvest shares (or IFQ) to cover landing~~

(Option 2 should be clarified – Does the Council intend “Any person retaining halibut must have adequate halibut IFQ. Halibut may not be retained with halibut PSC shares.” This likely should not be an option but a requirement.)

(2.5.5 could be applied to alternative 3)

Topic 18

2.6 Incentive species

Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish.

Owners of shares must utilize all their shares for an incentive species before participating in incentive fishery for that species.

Option. The portion of historic unharvested West Yakutat TAC will be made available as an incentive fishery, subject to provision of incentive fisheries

2.6.1 Eligibility to fish in the incentive fisheries

A. The unallocated ~~QS~~ **portion of the TAC of for the incentive fisheries species** are available for harvest, providing the ~~vessel~~ **share holder** has adequate PSC and bycatch species and the ~~vessel~~ **share holder** is a member of a GOA fishing cooperative.

~~B. Any quota holder qualified to be in a coop.~~

Option B. Open access participants will be permitted to harvest incentive species as long as the open access fishery remains open and NMFS determines that the bycatch and PSC allocations remaining in the open access fishery are adequate to support prosecution of incentive species.

Option C. Any holder of halibut or sablefish IFQ that has adequate PSC and bycatch species.

(2.6.1 is applicable to alternative 3

The application of A and B is unclear – are they options? – B is unclear and might be better revised, if it is necessary at all.

In addition, the Council should consider whether

- 3) *open access participants or*
- 4) *halibut and sablefish IFQ holders*

should be permitted to participate in incentive fisheries.

Topic 23

2.6.2 Catch accounting for the incentive fisheries – Allocated QS and Incentive fishery quota

- Option 1. The individual coop member's apportionment of the allocated incentive species QS must be used prior to the individual gaining access to the incentive fishery unallocated portion. The coop will notify NMFS when a vessel enters the incentive fishery quota pool.
- Option 2. The coop's allocation of incentive species QS must be fished before gaining access to the unallocated portion of the incentive species quotas. The coop members through a contractual coop agreement will address catch accounting amongst the coop members.
- Option 3. **For halibut and sablefish IFQ holders not participating in a sector-coop, the unallocated incentive species are available for harvest once the non-coop sector's allocation of the incentive species has been used or individual IFQ holder's allocation of the incentive species has been used.**
- Option 4. **For open access participants, the harvest of incentive species quota allocated to open access participants must be fished prior to gaining access to the unallocated portion of the incentive species quota.**

(2.6.2 applies to alternative 2

Option 3 could accommodate halibut and sablefish IFQ participants that hold bycatch shares – the suggested revision addresses those participants

No option provides for access to open access participants)

No option provides for access to open access participants – the added option 4 could be used to accommodate open access participants)

Topic 24

2.7 Preserving entry level opportunities for P. cod

2.7.5 **Each initial allocation of P. cod harvest shares for H&L and pot lowest producer to fixed gear catcher vessels below the block threshold size would remain "tied" to be a block of quota and could only be permanently sold or transferred as a block.**

Option 1. **allocations of 10,000 pounds or less** constitute one block

Option 2. **allocations of 20,000 pounds or less** constitute one block

2.7.1 can apply to alternative 3

(proposed revisions are intended to clarify the intention of the provision

Staff assumes that an "initial allocation" is the allocation to a single person (individual or legal entity))

Topic 27

2.7.6 Eligible participants would be allowed to hold a maximum of:

Option 1, 1 block

Option 2. 2 blocks

Option 3. 4 blocks

— Suboption. ~~Lowest producer harvest shares earned as a bycatch in the halibut sablefish ITQ program would be exempt from the block program~~

2.7.2 can apply to alternative 3

(Council should clarify whether holders of unblocked shares may also hold blocks

No option exists for the allocation of cod to halibut and sablefish IFQ participants – unless an option for allocations is made, the suboption should be deleted)

Topic 27

2.8 Skipper/Crew

9/23/03

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

Option 1. No skipper and/or crew provisions

Option 2. Allocate to skippers and/or crew

Suboption 1. Initial allocation of 5% shall be reserved for captains and/or crew

Suboption 2. Initial allocation of 10% shall be reserved for captains and/or crew

Suboption 3. Initial allocation of 15% shall be reserved for captains and/or crew

Option 3. Establish license program for certified skippers. For initial allocation Certified Skippers are either:

v. Vessel owners receiving initial QS or harvest privileges; or

vi. Hired skippers who have demonstrated fishing experience in Federal or State groundfish fisheries in the BSAI or GOA for 3 out of the past 5 years as documented by a CFEC permit and signed fish tickets and/or appropriate NMFS documentation (starting date for five years is 2003).

Suboption 1. include crew in the license program.

Suboption 2. require that new Certified Skippers licenses accrue to individuals with demonstrated fishing experience (Groundfish – BSAI/GOA, state or federal waters) similar to halibut/sablefish program.

Under any alternative that establishes QS and annual harvest privileges, access to those annual harvest privileges is allowed only when fishing with a Certified Skipper onboard. Certified Skipper Licenses are non-transferable. They accrue to an individual and may not be sold, leased, bartered, traded, or otherwise used by any other individual.

Defer remaining issues to a trailing amendment and assumes simultaneous implementation with rationalization program.

(2.8 can be applied to alternative 3

Council should clarify whether this skipper program would apply to the allocation of bycatch to skippers of halibut and sablefish vessels)

2.9 Communities

(any options in 2.9 can be applied to alternative 3)

Note: Bering Sea/Aleutian Islands communities (CDQ or otherwise) and communities adjacent to the Eastern GOA regulatory area Southeast Outside District (except Yakutat) will not be included in any Gulf rationalization community protection programs.

2.9.3 Regionalization

Regionalization options may be selected under any of the proposed alternatives for Gulf rationalization.

If adopted, all processing licenses (for shorebased and floating processors) will be categorized by region.

- Processing licenses that are regionally designated cannot be reassigned to another region.
- Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught.
- Catcher processor shares and incentive fisheries are not subject to regionalization.
- Qualifying years to determine the distribution of shares between regions will be consistent with the preferred alternative under “Section 2.2 Qualifying Periods”.

(the system of processor linkages could complicate the designation of harvest shares,

3) unless linkages are regionalized – i.e., one linkage per region in which a harvester has shares or
9/23/03

4) all harvest shares are designated for the region in which the harvester's linked processor is located)

Under alternative 3 all catcher vessel shares would be subject to processor linkages

Topic 8

Central Gulf: Two regions are proposed to classify harvesting shares: North - South line at 58° 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area) extending west to east to the intersection with 140° W long, and then southerly along 140° W long.).

The following fisheries will be regionalized for shorebased (including floating) catch and subject to the North - South distribution: Pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock

2.9.2 Community Fisheries Quota (CFQ)

2.9.2.1 Administrative Entity

- Option 1. Gulf wide administrative entity
- Option 2. Regional administrative entities (Western Gulf, Central Gulf, Eastern Gulf)
- Option 3. Multi-community administrative entities
- Option 4. The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.9.2.2 Eligible Communities

- Option 1. Population (based on 2000 Census):
 - a. Less than 1,500
 - b. Less than 2,500
 - c. Less than 5,000
 - f. Less than 7,500
- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway network
 - b. Coastal communities adjacent to salt water
 - c. Communities within 10 nautical miles of the Gulf Coast
 - d. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.
- Option 3. Historic Participation in Groundfish Fisheries
 - a. Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
 - b. Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut
- Option 4. Government Structure
 - a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
 - b. All other eligible communities

2.9.2.3 Species

- Option 1. All rationalized groundfish species
- Option 2. Limited to species that can be caught without (hard on) bottom trawling

2.9.2.4 Allocation

- Option 1. 5% of annual TAC

- Option 2. 10% of annual TAC
- Option 3. 15% of annual TAC

2.9.2.5 Harvesting of Shares

- Option 1. Limited to residents of eligible communities that own their vessels
- Option 2. Limited to residents of eligible communities
- Option 3. No limitations on who harvests shares
- Option 4. No offshore leases to CPs.

2.9.2.6 Use of Revenue

- Option 1. Community development projects that tie directly to fisheries or fishery related projects and education.
- Option 2. Community development projects that tie directly to fisheries and fisheries related projects, education and government functions.
- Option 3. Education, social and capital projects within eligible communities as well as governmental functions.

2.9.2.7 Qualification of Administrative Entity

The administrative entity must submit a detailed statement of eligibility to NMFS and the State prior to being qualified. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation.

2.9.2.8 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

2.9.5 Community Purchase Program

2.9.3.1 Administrative Entity

Option. The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.9.3.2 Eligible communities

Option 1. Population (based on 2000 Census):

- a. Less than 1,500
- b. Less than 2,500
- c. Less than 5,000
- d. Less than 7,500

Option 2. Geography

- a. Coastal Communities without road connections to larger community highway network
- b. Coastal communities adjacent to salt water
- c. Communities within 10 nautical miles of the Gulf Coast
- f. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.

Option 3. Historic Participation in Groundfish Fisheries

- a. Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
- b. Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut

Option 4. Government Structure

- a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
- b. All other eligible communities

2.9.3.3 Qualification of Administrative Entity

The administrative entity must submit a detailed statement of eligibility to NMFS and the State prior to being qualified. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation.

2.9.3.4 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

2.9.4 Community Incentive Fisheries Trust (CIFT)

The CIFT has full ownership of CIFT harvest shares and holds these shares in trust for the communities, processors and crewmembers in the region to use as leverage to mitigate impact directly associated with implementation of a rationalization program.

2.9.4.1 Harvest Share Distribution

10-30 % of harvest shares shall be originally reserved for GOA CIFT associations. These harvest shares will be a pool off the top before individual distribution of harvest shares.

2.9.4.2 CIFT Designation

Option 1. One CV CIFT for entire GOA (exclude SEO)

Option 2. Regional CV CIFTs:

Suboption 1. Central GOA (Kodiak, Chignik)

Suboption 2. Western GOA

Suboption 3. North Gulf Coast (Homer to Yakutat)

Option 3. CP-based CIFT

Defer remaining issues to a trailing amendment

2.10 PSC for Crab and Salmon

The Council requests that staff prepare a discussion paper showing historical data for the bycatch of salmon and crab by species, area, and year for areas subject to the GOA rationalization program. The Council intends to review these data and develop bycatch measures for salmon and crab which will be implemented as part of this rationalization program. The Council intends to develop options for analysis that could be incorporated no later than the October 2003 meeting.

(2.10 could be applied to alternative 3)

2.11 Review and Evaluation

2.11.1 Data collection.

A mandatory data collection program would be developed and implemented. The program would collect cost, revenue, ownership and employment data on a periodic basis to provide the information necessary to

study the impacts of the program. Details of this program will be developed in the analysis of the alternatives.

2.11.2 Review and Sunset

Option 1. The program would sunset unless the Council decides to continue or amend the program. The decision of whether to continue or amend would be based on a written review and evaluation of the program's performance compared to its objectives.

Suboption 1. 5 years after fishing under the program

Suboption 2. 7 years after fishing under the program

Suboption 3. 10 year schedule after fishing under the program

Suboption 4. No sunset provision.

Option 2. Formal program review at the first Council Meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities, by addressing concerns, goals and objectives identified in the problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

(2.11 could be applied to alternative 3)

2.12 Sideboards

GOA Groundfish sideboards under the crab rationalization plan and under the AFA would be superceded by the GOA rationalization program allocations upon implementation.

Participants in the GOA rationalized fisheries are limited to their historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

Vessels (Steel) and LLPs used to generate harvest shares used in a co-op may not participate in other federally managed open access fisheries in excess of sideboard allotments.

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

The Council noted its intent to further develop sideboard measures for analysis.

(2.12 could be applied to alternative 3)

The Council should clarify whether any difference is intended between the 2nd and 4th sentences and delete one if not. Deletion of the 2nd sentence is more appropriate as sideboards are typically aggregate. In addition, the Council should consider whether the sideboards for SEO groundfish are necessary, if the allocations of bycatch proposed by section 2.1 are made.

Topic 19

3 Processing Sector Provisions

3.3 Provisions for a Closed Class of Processors

3.1.1 Harvester Delivery requirements

3.1.1.1 Closed class delivery requirements

3.3.1.1 Option 1. 50-100% of CV harvest share allocation will be reserved for delivery to:

i. the linked qualified closed trawl or fixed class processor.

ii. ~~any qualified closed trawl or fixed or large or small class processor~~

The remaining (50 -0%) CV harvest share allocation can be delivered to:

v. any processor excluding CPs

vi. any processor including CPs

Option 2. ~~Low producing vessels are exempt from closed class delivery requirements~~

(3.1.1.1 applies to all catcher vessels under alternative 3)

Catcher/processor should be defined, if a restriction on deliveries to C/Ps is adopted

Topic 22

3.1.1.2 Linkage:

- **Option 1.** A harvester's processor linked shares are associated with the qualified fixed or trawl closed class large or small processor to which the harvester delivered the most pounds of groundfish during
- Option 2.** the last ____ years of the harvester allocation base period.
- 1
 - 2
 - 3

If the processor with whom the harvester is associated with is no longer operating, the harvester is eligible to deliver to any qualified processor.

(The Council should clarify whether a linkage would be established by a harvester delivering to a qualified processor)

(3.1.1.1 applies to all catcher vessels under alternative 3)

Topic 12

The Council requests that staff provide a discussion paper addressing the effect of a use cap on the number of processors in a region.

3.1.1.3 Penalties for moving between linked processors

Option 1. No share reduction for moving between processor year to year

Option 2. Share reductions of 10-20% each time a harvester moves to a different linked processor for:

- 1 year
- 2 years
- 4 years

The share reduction shall be redistributed to:

- The shareholders in association with that processor that the shareholder left (if it continues to exist).
- To all cooperatives in the sector on a pro rata basis. (applies if mandatory cooperatives)

Option 3. Penalty to move depends on the amount of open access B share fish. Vessel leaves A share for one year.

Suboption: Penalty applies to both A and B shares.

Closed A share class	Open B share class	Penalty on total amount of A and B shares	Ratio of penalty on A shares to B shares
90%	10%	10%	9:1 (9%)
80%	20%	20%	4:1 16%
70%	30%	30%	7:3 (21%)
60%	40%	40%	3:2 (24%)
50%	50%	50%	1:1 (25%)

Option 4. One year penalty in open access.

Option 5. No penalty. Movement allowed only upon agreement between Coop members and affiliated processor.

(3.1.1.3 would apply to all catcher vessels under alternative 3)

Topic 13

3.1.1.4 Low producing vessel provisions

i. Low producing vessels are defined as:

Option 1. H&L or pot CVs receiving less than average QS initially allocated by gear, species and area

Option 2. H&L or pot CVs receiving less than the 75th percentile QS initially allocated by gear, species and area

ii. Provisions for low producing vessels

Option 1. Low producing vessels are exempt from closed class delivery provisions

Option 2. Subject to block program.

(Alternative 3 does not distinguish high and low producing fixed gear cvs)

3.1.2. Closed Class Processor Qualifications

3.1.2.1 To purchase groundfish required to be delivered to a qualified processor must have purchased and processed a minimum amount of groundfish as described below in at least 4 of the following years:

Option 1. 1995-99.

Option 2. 1995-01

Option 3. 1995-02

Option 1. a. Trawl eligible Processors

Suboption 1. 2000 mt

Suboption 2. 1000 mt

Suboption 3. 500 mt

b. Fixed gear eligible Processors

Suboption 1. 500 mt

Suboption 2. 200 mt

Suboption 3. 50 mt

c. Trawl and Fixed gear eligible processors

Meet criteria for both the closed class trawl process catch and closed class fixed gear process catch as described above

Option 2. a. Large closed class processor

Suboption 1. 2000 MT

Suboption 2. 1000 MT

Suboption 3. 500 MT

b. Small closed class processor

Suboption 1. 500 MT

Suboption 2. 200 MT

Suboption 3. 50 MT

c. Open class processor – no groundfish landing qualifications – can purchase any amount of open class B share QS.

3.1.2.1 would apply to alternative 3

3.1.2.2 Processor history would be credited to (and licenses would be issued to):

Option 1. Operator – must hold a federal or state processor permit.

Option 2. Facility owner

Suboption. Custom processing history would be credited to:

k. the processor that physically processes the fish

ii. the processor that purchases the fish and pays for processing

3.1.2.2 would apply to alternative 3

Topic 10

3.1.2.3 Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Option 1. Within the same community

Option 2. Within the same region

3.1.2.3 would apply to alternative 3

Topic 9

3.1.2.4 Processing Use caps by closed class processor type (trawl, fixed or trawl and fixed (low or large), by CGOA and WGOA regulatory areas:

Option 1. Range 70% to 130% of TAC processed for all groundfish species for the largest closed class processor

Option 2. Processing use caps for small closed class processors

i. 1000 to 2000 MT

ii. 2000 to 3000 MT

(Note: There is no limit on the amount of fish either a small or large closed class processor can buy from the open B share classed fish)

3.1.2.4 would apply to alternative 3

3.1.2.5 Processing Caps may apply at:

Option 1. the facility level

Option 2. the entity level

3.1.2.5 would apply to alternative 3

Topic 7

3.1.2.8 Closed class license ownership restrictions on processors

Option 1. No restrictions

Option 2. Trawl/fixed license holders cannot hold any additional fixed gear only licenses.

Option 3. Large closed class processors cannot hold small closed class processors licenses.

The Council could add an option that limits the number of licenses a processor may hold.

3.1.2.6 would apply to alternative 3

The Council might consider options to limit the number of licenses a processor can hold to provide for competition and entry.

Topic 15

4 Cooperative Provisions

4.1 Cooperative type (voluntary or mandatory)

Option 1. Cooperative membership will be voluntary (i.e., harvest shares (IFQ) will be allocated to non-members)

Option 2. Cooperative membership will be mandatory (i.e., harvest shares will be allocated only to cooperatives)

(Option 2 would apply to alternative 3 since all sectors are subject to a mandatory cooperative)

4.4 Cooperative formation

4.2.1 Co-ops can be formed between holders of harvest shares or history of:

i. any type

ii. the same area, gear, vessel type (CV or C/P), and/or vessel length class.

iii. the following classes of shares/history

CV trawl

CV longline

CV pot

C/P trawl

C/P longline

C/P pot

- iv. All CV in the same area (WGOA and CGOA & WY combined)

CV trawl

CV fixed gear

CV longline

CV pot

Each group of share/history holders of a defined class that may form cooperatives is defined as a “sector.”

(Either iii or iv could apply for catcher vessels – iii would apply to catcher/processors (the area concept of iv could be adapted to apply to catcher processors))

Topic 4

4.2.1.1 Coop/processor affiliations

Option 1. No association required between processors and coops

Option 2. CV cooperatives must be associated with

a) a processing facility

b) a processing company

(The Council could decide whether linkages are on a facility or company basis – should be consistent with 3.1.2.2) Also in making the decision, the Council should consider whether linkages are regionalized (see 2.9.1)

Topic 7

The associated processor must be:

a) a licensed processor

i) a qualified processor (if closed processor class is selected)

j) a closed class processor to which the share holder's shares are linked

k) any processing share holder (if processor shares are selected) *(note: should be deleted)*

(c applies to all catcher vessels)

Option 3. A harvester is eligible to join a cooperative associated with the qualified fixed or trawl closed class large or small processor to which the harvester delivered the most pounds of groundfish during the last [1, 2, or 3] years of the harvester allocation base period. If the processor with whom the harvester is eligible to form a coop is no longer operating, the harvester is eligible to join a coop with any qualified processor.

(Option 3 can be deleted since it is the same as 3.1.1.2)

Suboption 1. Processors can associate with more than one co-op

Suboption 2. Processors are limited to 1 co-op per plant for each sector.

Council could decide whether multiple cooperatives are permitted. This should be coordinated with the cooperative formation rules of 4.2.2.2

Suboption 3. Processor affiliated vessels may join coops. *(moved from header)*

This should not be an option since this is a mandatory cooperative program – otherwise the Council might consider simply excluding processor affiliates from the allocation or specifying the redistribution of the allocation that would be made to these vessels (to other vessels or to some open access fishery)

Topic 11

Note: A processor association will not be required for a C/P cooperative.

4.2.2 Cooperatives are required to have at least:

Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)

Option 2. 50-100 percent of the harvest shares (or catch history) of its sector (may choose different percentages for different sectors)

Option 3. 50-100% of shareholder entities belonging to its sector. Council may choose different percentages for different sector.

Option 4. 50-75 percent of the harvest shares (or catch history) of the eligible harvest share (or catch history) for each coop associated with its processor

Note: Requirements may differ across sectors (or for CV and CP cooperatives)

Council could select options for the different sectors

Topic 14

4.2.3 Duration of cooperative agreements:

Option 1. 1 year

Option 2. 3 years

Option 3. 5 years

Council could select options for the different sectors

4.2.6 Allocation Prerequisites

Allocations to CV co-ops will only be made under the following conditions:

Required Co-op agreement elements:

Harvesters and processors are both concerned that rationalization will diminish their current respective bargaining positions. Therefore, a pre-season co-op agreement between eligible, willing harvesters and an eligible, and willing processor is a pre-requisite. The co-op agreement must contain a fishing plan for the harvest of all co-op fish.

This can be applied to all catcher vessels

4.3 Rules Governing Cooperatives

4.3.1 Annual Allocations

— ~~Option 1.~~ For catcher vessel cooperatives:

Annual allocations of cooperative members would be issued to the cooperative.

For catcher/processor cooperatives:

Option 1. Annual allocations of cooperative members would be issued to the cooperative.

Option 2. Annual allocation of the sector would be issued to the sector cooperative (if “true” sector cooperative alternative is selected)

Option 2 can only apply to catcher/processers and will apply only if 1) no open access is provided 2) only one cooperative can exist for each c/p sector and 3) the shares of non-members of a cooperative are allocated to the cooperative for its sector (and not to all sectors)

- Co-op members may internally allocate and manage the co-op’s allocation per the co-op membership agreement. Subject to any harvesting caps that may be adopted, member allocations may be transferred and consolidated within the co-op to the extent permitted under the membership agreement.
- Monitoring and enforcement requirements would be at the co-op level. Co-op members are jointly and severally responsible for co-op vessels harvesting in the aggregate no more than their co-op’s allocation of ~~target~~ **primary** species, ~~non-target~~ **secondary** species and halibut mortality, as may be adjusted by interco-op transfers.
- Co-ops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Co-ops may penalize or expel members who fail to comply with their membership agreement. Processor affiliates cannot participate in price setting negotiations except as permitted by general antitrust law.
- Co-ops may engage in inter-cooperative transfers to the extent permitted by rules governing transfers of shares among sectors (e.g., gear groups, vessel types).
- **A cooperative must accept membership of any eligible persons subject to the same terms and conditions as other members.**

Topic 14

The bulleted provisions can be applied to all cooperatives

4.4 Ownership and Use Caps and Underages

4.4.3 Set co-op use caps at 25 to 100% of total TAC by species (must choose 100 percent for a “true” sector cooperative)

This provision can be applied to all cooperatives

Council should clarify whether this is intended to be applied on a sector basis

(if the cap is set a 75 percent, could a trawl catcher vessel share cooperative use 75 percent of the cod fishery or only 75 percent of the cod allocated to trawl catcher vessels)

4.4.4

4.4.2 Coop use caps for harvest shares on any given vessel shall be:

- Option 1. Set at the same level as the individual vessel level.
- Option 2. 3 times individual vessel use cap.
- Option 3. No use caps

- To effectively apply individual ownership caps, the number of shares or history that each cooperative member could hold and bring to cooperatives would be subject to the individual ownership caps (with initial allocations grandfathered). Transfers between cooperatives would be undertaken by the members individually, subject to individual ownership caps.

- Underage limits would be applied in the aggregate at the co-op level

(provisions of 4.2.2 can be applied to all cooperatives)

4.5 Movement between cooperatives

4.7.2 Harvesters may move between cooperatives at:

- Option 1. the end of each year.
- Option 2. the expiration of the cooperative agreement.
- Option 3. No movement in the first two years

(provisions of 4.5.1 can be applied to all cooperatives)

4.7.3 License Transfers Among Processors (applies only if closed class of processors)

For catcher vessel cooperatives

- Option 1. any cooperative association with that license will transfer to the processor receiving the license. All harvest share/history holders will be subject to any share reduction on departing the cooperative, as would have been made in the absence of the transfer.
- Option 2. any cooperatives associated with the license will be free to associate with any qualified processor. Harvest share/history holders in the cooperative will be free to move among cooperatives without share/history reduction.

Either option of 4.5.2 could be applied to catcher vessel cooperatives

4.8 Non-Members of Cooperatives (applies only if mandatory cooperatives)

4.8.1 Harvest share/history holders that do not choose to join a co-op

- Option 1. May fish in open access, provided NMFS determines that the non-cooperative allocation is sufficient to conduct an open access fishery. The open access fishery will be comprised of all shares of harvesters that are not cooperative members of the same sector (i.e., area, vessel type (CV or C/P), and/or gear). NMFS will have the discretion to determine the distribution of ~~bycatch~~ **secondary and PSC** among ~~target~~ **primary** species open access fisheries from shares of harvesters holding ~~bycatch~~ **secondary and PSC** shares for multiple ~~target~~ **primary** fisheries.

- Option 2. Are not allowed to participate in the rationalized fisheries until they join a co-op.

The options in 4.6.1 could be applied to all share holders

The Council should consider whether open access fisheries are subject to regional/processor landing requirements

TRAILING AMENDMENTS

The Council intent is for these trailing amendments to be implemented simultaneously with the main rationalization program.

7.Fee and Loan Program

8.Skipper/Crew Share Program issues

9.Remaining issues of CIFT program